

IN THE UNITED STATES DISTRICT COURT
IN AND FOR THE NORTHERN DISTRICT OF OKLAHOMA

E. P. LITCHFIELD,)

Plaintiff,)

v s.)

NO. 72-C-448

C. N. A. INSURANCE CO.,)
a foreign insurance corporation,)

Defendant.)

F I L E

ORDER

Jack C. Silver, Clerk
U. S. DISTRICT COURT

This matter coming on for ~~hearing~~ ^{consideration} before me, the undersigned Judge,

this 28 day of June, 1973, upon plaintiff's application to dismiss without
prejudice his action for declaratory judgment; and the Court, being fully advised
in the premises and upon good cause shown, ^{complaint & cause of action} finds that this case should be and
is hereby dismissed without prejudice to filing of future actions.

IT IS SO ORDERED.

William C. Silver
JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

BERT NEAL, et al.,)
)
 Plaintiffs,)
)
vs.)
)
AMERICAN AIRLINES, INC., a)
corporation, et al.,)
)
 Defendants.)

No. 72-C-428 ✓

FILED

JUN 2 1973

Jack C. Silver, Clerk
U. S. DISTRICT COURT

ORDER SUSTAINING MOTIONS TO DISMISS

Based on the Memorandum Opinion heretofore filed,

IT IS ORDERED that the Motions to Dismiss filed by
American Airlines, Inc. and The Transport Workers Union of
America, AFL-CIO, be and the same are hereby sustained and
the complaint and cause of action are hereby dismissed.

ENTERED this 29 day of June, 1973.

Carroll L. Williams

CHIEF UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
)
Plaintiff,)
vs.) CIVIL ACTION NO. 73-C-157✓
)
)
PRINCE MAXWELL, JR., HATTIE)
MAE MAXWELL, and GEORGE P.)
STRIPLIN, Attorney-at-Law,)
)
Defendants.)

JUDGMENT OF FORECLOSURE

THIS MATTER COMES on for consideration this 28 day
of June, 1973, the plaintiff appearing by Robert P. Santee,
Assistant United States Attorney, and the defendants, Prince
Maxwell, Jr., Hattie Mae Maxwell, and George P. Striplin, Attorney-
at-Law, appearing not.

The Court being fully advised and having examined
the file herein finds that Prince Maxwell, Jr. was served with
Summons and Complaint on May 23, 1973; that Hattie Mae Maxwell
was served with Summons and Complaint on May 30, 1973; that
George P. Striplin, Attorney-at-Law, was served with Summons
and Complaint on May 22, 1973, all as appears from the Marshal's
Return of Service herein, and

It appearing that the said defendants have failed
to answer herein and that default has been entered by the
Clerk of this Court.

The Court further finds that this is a suit based
upon a mortgage note and foreclosure on a real property mortgage
securing said mortgage note and that the following described
real property is located in Tulsa County, Oklahoma, within
the Northern Judicial District of Oklahoma:

Lot Ten (10), Block One (1), CHANDLER-FRATES
SECOND ADDITION to the City of Tulsa, Tulsa
County, State of Oklahoma, according to the
recorded plat thereof.

THAT the defendants, Prince Maxwell, Jr. and Hattie
Mae Maxwell, did, on the 19th day of December, 1963, execute

and deliver to Administrator of Veterans Affairs, their mortgage and mortgage note in the sum of \$9,500.00 with 5 1/4 per cent interest per annum, and further providing for the payment of monthly installments of principal and interest; and

The Court further finds that the defendants, Prince Maxwell, Jr. and Hattie Mae Maxwell, made default under the terms of the aforesaid mortgage note by reason of their failure to make monthly installments due thereon for more than 12 months last past, which default has continued and that by reason thereof the above-named defendants are now indebted to the plaintiff in the sum of \$8,382.65 as unpaid principal, with interest thereon at the rate of 5 1/4 per cent interest per annum from February 1, 1972, until paid, plus the cost of this action accrued and accruing.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the plaintiff have and recover judgment against defendants, Prince Maxwell, Jr. and Hattie Mae Maxwell, in personam, for the sum of \$8,382.65 with interest thereon at the rate of 5 1/4 per cent per annum from February 1, 1972, plus the cost of this action accrued and accruing, plus any additional sums advanced or to be advanced or expended during this foreclosure action by plaintiff for taxes, insurance, abstracting, or sums for the preservation of the subject property.

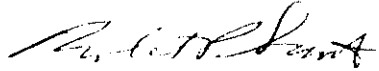
IT IS FURTHER ORDERED, ADJUDGED AND DECREED that upon the failure of said defendants to satisfy plaintiff's money judgment herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell, with appraisement the real property and apply the proceeds thereof in satisfaction of plaintiff's judgment. The residue, if any, to be deposited with the Clerk of the Court to await further order of the Court.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that from and after the sale of said property, under and by virtue of this judgment and decree, all of the defendants and each of them and all persons claiming under them since the filing

of the complaint herein be and they are forever barred and foreclosed of any right, title, interest or claim in or to the real property or any part thereof.

Charles F. ...
United States District Judge

APPROVED.



ROBERT P. SANTEE
Assistant United States Attorney

)
)
)
) 71-C-164
)
)
)
)
)
)
)
)

CHIEF UNITED STATES DISTRICT JUDGE

CHIEF UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

Jack C. H. [unclear]
U. S. DISTRICT COURT

UNITED STATES OF AMERICA,)
)
Plaintiff,)
vs.) CIVIL ACTION NO. 73-C-159 ✓
)
JIMMY RAY GLADSON, JANICE M.)
GLADSON and BETTY MARSHALL,)
)
Defendants.)

JUDGMENT OF FORECLOSURE

THIS MATTER COMES on for consideration this _____ day
of June, 1973, the plaintiff appearing by Robert P. Santee,
Assistant United States Attorney, and the defendants, Jimmy Ray
Gladson, Janice M. Gladson and Betty Marshall, appearing not.

The Court being fully advised and having examined
the file herein finds that Jimmy Ray Gladson and Janice M. Gladson
were served with Complaint and Summons on May 30, 1973; that
Betty Marshall was served with Complaint and Summons on May 22,
1973, all as appears from the Marshal's Return of Service herein,
and

It appearing that the said defendants have failed
to answer herein and that default has been entered by the Clerk
of this Court.

The Court further finds that this is a suit based
upon a mortgage note and foreclosure on a real property mortgage
securing said mortgage note and that the following described
real property is located in Ottawa County, Oklahoma, within
the Northern Judicial District of Oklahoma:

Lot Ten (10), in Block Three (3), in the
ROSEDALE SUBDIVISION of Lots One (1) and
Two (2) in the CARMICHAEL ADDITION to the
City of Miami, Ottawa County, Oklahoma,
according to the recorded plat thereof.

THAT the defendants, Jimmy Ray Gladson and Janice M.
Gladson, did, on the 16th day of June, 1970, execute and deliver
to Administrator of Veterans Affairs, their mortgage and mortgage
note in the sum of \$10,000.00 with 8 1/2 per cent interest

per annum, and further providing for the payment of monthly installments of principal and interest; and

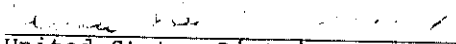
The Court further finds that the defendants, Jimmy Ray Gladson and Janice M. Gladson, made default under the terms of the aforesaid mortgage note by reason of their failure to make monthly installments due thereon for more than 12 months last past, which default has continued and that by reason thereof the above-named defendants are now indebted to the plaintiff in the sum of \$9,858.97 as unpaid principal, with interest thereon at the rate of 8 1/2 per cent interest per annum from January 16, 1972, until paid, plus the cost of this action accrued and accruing.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the plaintiff have and recover judgment against defendants, Jimmy Ray Gladson and Janice M. Gladson, in personam, for the sum of \$9,858.97 with interest thereon at the rate of 8 1/2 per cent per annum from January 16, 1972, plus the cost of this action accrued and accruing, plus any additional sums advanced or to be advanced or expended during this foreclosure action by plaintiff for taxes, insurance, abstracting, or sums for the preservation of the subject property.

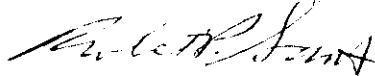
IT IS FURTHER ORDERED, ADJUDGED AND DECREED that upon the failure of said defendants to satisfy plaintiff's money judgment herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell, with appraisement the real property and apply the proceeds thereof in satisfaction of plaintiff's judgment. The residue, if any, to be deposited with the Clerk of the Court to await further order of the Court.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that from and after the sale of said property, under and by virtue of this judgment and decree, all of the defendants and each of them and all persons claiming under them since the filing of the complaint herein be and they are forever barred and

foreclosed of any right, title, interest or claim in or to
the real property or any part thereof.


United States District Judge

APPROVED.



ROBERT P. SANTEE
Assistant United States Attorney

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN
DISTRICT OF OKLAHOMA

THE FIRST NATIONAL BANK AND TRUST
COMPANY OF TULSA, a National
Banking Association,

Plaintiff,

-vs-

MIAMI INDUSTRIAL AUTHORITY, A Public
Trust, SECRETARY OF COMMERCE OF THE
UNITED STATES OF AMERICA, E. & J.
CONSTRUCTION COMPANY, INC., SOUTH-
WESTERN SASH & DOOR COMPANY, SHADE
STONE, O'BRIEN ROCK CO., INC.,
MILLER ELECTRIC SHOP, INC., GEORGE
SHAMPLIN, ANCO MANUFACTURING AND
SUPPLY COMPANY, GENE LONGAN, C. WATTS
CONSTRUCTION COMPANY, INC., CALVIN L.
WATTS, NATIONAL INDEMNITY COMPANY,
STEELCRAFT CORPORATION, JOHN GARRETT,
and CROWN, LTD., a limited partnership,

Defendants.

72-C-78 ✓
No. ~~C-71-356~~

E I L E D
JUN 20 1973 V.
Jack C. Shinn, Clerk
U. S. DISTRICT COURT

ORDER

Now on this 26 day of June, 1973,
the above entitled cause comes on for hearing upon the
Stipulation of Plaintiff and Defendant, E. & J. Construc-
tion Company, Inc., to dismiss and the Court being well
and fully advised finds that said cause with respect to
Plaintiff and Defendant, E. & J. Construction Company, Inc.,
should be and the same is hereby dismissed.

Judge

APPROVED:

Attorney for Plaintiff

Attorney for Defendant,
E. & J. CONSTRUCTION CO., INC.

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

JUN 26 1973

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.)
)
GARY T. BEST, HOLLYCE SUSAN)
BEST, et al.,)
)
Defendants.)

Jack C. Silver, Clerk
U. S. DISTRICT COURT
Civil Action No. 73-C-30

JUDGMENT OF FORECLOSURE

THIS MATTER COMES on for consideration this 25th day
of June, 1973, the plaintiff appearing by Robert P. Santee, Assistant
United States Attorney, and the defendants, Gary T. Best and Hollyce
Susan Best, appearing by their attorney, Steven E. Smith, and the
defendants, Joseph L. Brake and Rosa Lea Brake, appearing not.

The Court being fully advised and having examined
the file herein finds that the defendants, Gary T. Best and Hollyce
Susan Best, were personally served copies of the Summons and Com-
plaint on February 2, 1973; and that the defendants, Joseph L. Brake
and Rosa Lea Brake, were personally served copies of the Summons and
Complaint on March 2, 1973, all as appears from the Marshal's Returns
of Service herein, and

It appearing that the defendants, Gary T. Best and Hollyce
Susan Best, having duly filed their Answer herein and the issues
having been joined, the following findings of fact and conclusions
of law are herewith entered by the Court, with the approval of
counsel for the defendants, Gary T. Best and Hollyce Susan Best, and

It appearing that defendants, Joseph L. Brake and Rosa Lea
Brake, have failed to answer herein and that default has been
entered by the Clerk of this Court.

The Court further finds that this is a suit based upon
a mortgage note and foreclosure on a real property mortgage secured by
said mortgage note and that the following described real property
is located in Ottawa County, Oklahoma, within the Northern Judicial
District of Oklahoma:

Lot Sixty-Two (62) and Sixty-Three (63) and "C" in BROOKSIDE PLACE, being an Addition to the City of Miami, Ottawa County, Oklahoma, according to the recorded plat thereof.

THAT the defendants, Gary T. Best and Hollyce Susan Best, did, on August 13, 1968, execute and deliver to the Administrator of Veterans Affairs, their mortgage and mortgage note in the sum of \$13,500.00 with 6 3/4 per cent interest per annum, and further providing for the payment of monthly installments of principal and interest; and

The Court further finds that the defendants, Joseph L. Brake and Rosa Lea Brake, assumed said mortgage note and mortgage on May 8, 1971, by virtue of a Warranty Deed dated March 8, 1971.

The Court further finds that the defendants, Gary T. Best and Hollyce Susan Best, Joseph L. Brake and Rosa Lea Brake, made default under the terms of the aforesaid mortgage note by reason of their failure to make monthly installments due thereon for more than twelve months last past, which default has continued and that by reason thereof the above-named defendants are now indebted to the plaintiff in the sum of \$12,597.56 as unpaid principal, with interest thereon at the rate of 6 3/4 per cent interest per annum from September 13, 1971, until paid, plus the cost of this action accrued and accruing.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the plaintiff have and recover judgment against defendants, Gary T. Best, Hollyce Susan Best, Joseph L. Brake and Rosa Lea Brake, and each of them, for the sum of \$12,597.56 with interest thereon at the rate of 6 3/4 per cent per annum from September 13, 1971, plus the cost of this action accrued and accruing, plus any additional sums advanced or to be advanced or expended during this foreclosure action by plaintiff for taxes, insurance, abstracting, or sums for the preservation of the subject property.

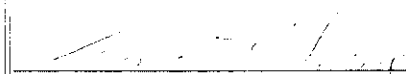
IT IS FURTHER ORDERED, ADJUDGED AND DECREED that upon the failure of said defendants to satisfy plaintiff's money judgment

Herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell, with appraisement the real property and apply the proceeds thereof in satisfaction of plaintiff's judgment. The residue, if any, to be deposited with the Clerk of the Court to await further order of the Court.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that from and after the sale of said property, under and by virtue of this judgment and decree, all of the defendants and each of them and all persons claiming under them since the filing of the complaint herein be and they are forever barred and foreclosed of any right, title, interest or claim in or to the real property or any part thereof.


UNITED STATES DISTRICT JUDGE

APPROVED:


ROBERT P. SANTEE
Assistant United States Attorney
Attorney for Plaintiff,
United States of America

STEVEN E. SMITH
Attorney for defendants,
Gary T. Best and Hollyce Susan Best

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

JUNIOR CHAMBER OF COMMERCE OF
ROCHESTER, INC.;
JANIS CAINES, individually, and on
behalf of all other persons
similarly situated;
JANE SELMAN, individually, and on
behalf of all other persons
similarly situated;
CHARLES WETMORE, individually, and
on behalf of all other persons
similarly situated;
JAMES T. BRUEN, individually, and
on behalf of all other persons
similarly situated;
DAVID HEILIGMAN, individually, and
on behalf of all other persons
similarly situated;
THOMAS BANASZEWSKI, individually, and
on behalf of all other persons
similarly situated;

Plaintiffs,

vs.

THE UNITED STATES JAYCEES,
Tulsa, Oklahoma;
THE NEW YORK STATE JAYCEES,
Canastota, New York;
THE UNITED STATES JAYCEES FOUNDATION,
Tulsa, Oklahoma;
THE JAYCEE MENTAL HEALTH AND MENTAL
RETARDATION FUND,
Tulsa, Oklahoma;
THE JAYCEE WAR MEMORIAL FUND,
Tulsa, Oklahoma;

GEORGE P. SHULTZ, as Secretary of the
Treasury of the United States,
Department of the Treasury;
JOHNIE M. WALTERS, as Commissioner of
Internal Revenue,
Internal Revenue Service;
THE INTERNAL REVENUE SERVICE OF THE
DEPARTMENT OF THE TREASURY OF THE
UNITED STATES;
PHILLIP V. SANCHEZ, Director, Office of
Economic Opportunity;
GEORGE ROMNEY, as Secretary of the Department
of Housing and Urban Development;
JAMES E. HODGSON, as Secretary of the
Department of Labor;
WILLIAM D. RUCKELSHAUS, as Administrator of
the Environmental Protection Agency;

Defendants.

FILED

Jack C. Silver, Clerk
U. S. DISTRICT COURT

No. 73-C-66

ORDER OF DISMISSAL

This cause was originally filed in the United States District Court for the District of Columbia and was transferred to the Northern District of Oklahoma for trial and disposition.

The plaintiff, Junior Chamber of Commerce of Rochester, Inc., New York, amended its bylaws so as to permit females to join the organization, and the individual plaintiffs are such females who did actually join the Rochester chapter.

On February 18, 1972, the defendant United States Jaycees notified Rochester Jaycees that because of the Rochester Jaycees admitting women, the United States Jaycees were suspending Rochester Jaycees from all rights, privileges and benefits accorded the Chapter, and thereafter on March 25, 1972, the administrative arm of the United States Jaycees, New York State Jaycees, Inc., formally expelled Rochester Jaycees from membership because of admission of women.

Plaintiffs seek a declaration that the laws of the United States forbid the furnishing of financial support to the Jaycee defendants organizations which exclude females from membership and seek a permanent injunction restraining the United States Government and Secretaries of the Departments named in the Complaint as defendants from granting or continuing to grant federal support in the form of tax benefits, federal contracts and federal or governmental monetary grants and assistance, and specifically seek an Order requiring the Jaycee defendants to restore plaintiff Junior Chamber of Commerce of Rochester, Inc., to full rights and privileges as an affiliate. Plaintiffs allege and claim that specific tax exemption not enjoyed by other corporations constitutes a state action taken "under color of state law" within the meaning of the Civil Rights Act, 42 U.S.C.A. §1983; U.S.C.A. Const. Amend. 14.

It is not alleged nor claimed by the plaintiffs that discrimination of any sort, sex, color or otherwise is employed by the Jaycee organizations in the performance of their services for public or in the sponsoring of any public service projects, and it is not claimed that any of the funds granted or allowed to the Jaycees for sponsoring these specific projects is used in anywise to promote any type of discrimination.

George P. Shultz, as Secretary of the Treasury of the United States, and the six other named United States Government officials and their departments have filed Motion to Dismiss this case upon the grounds:

1. The case is, in substance, an unconsented suit against the United States, and as such, its maintenance is barred by the Doctrine of Sovereign Immunity, and

2. The Complaint fails to state a claim upon which relief may be granted.

The remaining defendants, The United States Jaycees, Tulsa, Oklahoma, and the other named defendants, moved in their Answer to Dismiss this action for failure to state a claim upon which relief may be granted.

The record clearly shows that the Jaycee defendants are all and each of them non-profitable organizations.

The national Jaycee organization and all of its official chapters located in the various cities of the United States

were organized for such educational purposes and charitable purposes as will promote and foster the growth and development of young men's civic organizations in the United States, designed to inculcate in the individual membership of such organizations a spirit of genuine Americanism and civic spirit and interest, and its membership is limited to young men only.

The Court concludes that this is not a proper class action and not superior to other more appropriate and proper methods of adjudication. See Opinion of Judge A. Sherman Christensen in Marie Wilcox, et al. v. Commerce Bank of Kansas City, a corporation, (10 C.A. Opinion filed United States Court of Appeals, Tenth Circuit, February 20, 1973).

From a study of the pleadings and the entire file in this case, there appears to be no substantial constitutional question involved. In fact, it appears that the constitutional issue alleged in the Complaint is totally lacking in substance, and, therefore, the Court concludes that this is not a proper case for statutory three-judge court consideration and treatment.

Upon due consideration of all the pleadings filed in this case, testimony, affidavits, briefs, the argument of counsel and the admitted facts, the Court is of the opinion that the Motion of George P. Shultz and the other six named government defendants to dismiss should be sustained.

It is the further judgment and opinion of the Court that the Motion to Dismiss for failure to state a claim against the remaining defendants should be sustained, and

It is the further judgment and opinion of the Court that all intervening complainants herein, who have intervened by agreement of the parties, have failed to state a claim against the defendants and that the Intervening Complaints should be dismissed.

IT IS, THEREFORE, ORDERED that the plaintiffs' action and Intervenor's actions against the defendants and all of them should be and the same are hereby dismissed.

Dated this 26th day of June, 1973.


UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

JAMES E. HUNTER,

Plaintiff,

vs.

LVO CORPORATION,
ROSS-MARTIN COMPANY, and
THE SCOTT-RICE COMPANY,

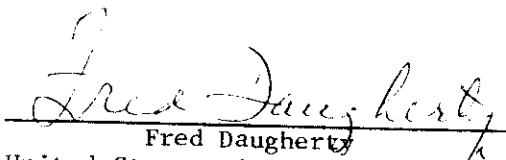
Defendants.

No. 72-C-57 Civil ✓

O R D E R

The above case is dismissed on application of the
defendants, the plaintiff concurring therein as shown by the
attached letter.

IT IS SO ORDERED this 26th day of June, 1973.


Fred Daugherty
United States District Judge

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN
DISTRICT OF OKLAHOMA

THE FIRST NATIONAL BANK AND TRUST
COMPANY OF TULSA, a National
Banking Association,

Plaintiff,

-vs-

MIAMI INDUSTRIAL AUTHORITY, A Public
Trust, SECRETARY OF COMMERCE OF THE
UNITED STATES OF AMERICA, E. & J.
CONSTRUCTION COMPANY, INC., SOUTH-
WESTERN SASH & DOOR COMPANY, SHADE
STONE, O'BRIEN ROCK CO., INC.,
MILLER ELECTRIC SHOP, INC., GEORGE
SHAMBLIN, ANCO MANUFACTURING AND
SUPPLY COMPANY, GENE LONGAN, C. WATTS
CONSTRUCTION COMPANY, INC., CALVIN L.
WATTS, NATIONAL INDEMNITY COMPANY,
STEELCRAFT CORPORATION, JOHN GARRETT,
and CROWN, LTD., a limited partnership,

Defendants.

No. 72-C-78 ✓
~~C-71-356~~

FILED

JUN 27 1972 *lm*

Jack C. Silver, Clerk
U. S. DISTRICT COURT

ORDER

Now on this 25 day of June, 1972,
the above entitled cause comes on for hearing upon the
Stipulation of Plaintiff and Defendant, George Shamblin,
to dismiss and the Court being well and fully advised
finds that said cause with respect to Plaintiff and Defendant,
George Shamblin, should be and the same is hereby dismissed.

Allen F. Barrow
Judge

APPROVED:

James R. [Signature]
Attorney for Plaintiff

George Shamblin
Attorney for Defendant,
GEORGE SHAMBLIN

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN
DISTRICT OF OKLAHOMA

THE FIRST NATIONAL BANK AND TRUST)
COMPANY OF TULSA, a National)
Banking Association,)

Plaintiff,)

-vs-)

MIAMI INDUSTRIAL AUTHORITY, A Public)
Trust, SECRETARY OF COMMERCE OF THE)
UNITED STATES OF AMERICA, E. & J.)
CONSTRUCTION COMPANY, INC., SOUTH-)
WESTERN SASH & DOOR COMPANY, SHADE)
STONE, O'BRIEN ROCK CO., INC.,)
MILLER ELECTRIC SHOP, INC., GEORGE)
SHAMBLIN, ANCO MANUFACTURING AND)
SUPPLY COMPANY, GENE LONGAN, C. WATTS)
CONSTRUCTION COMPANY, INC., CALVIN L.)
WATTS, NATIONAL INDEMNITY COMPANY,)
STEELCRAFT CORPORATION, JOHN GARRETT,)
and CROWN, LTD., a limited partnership,)

Defendants.)

72-C-78
No. ~~C-71-356~~

FILED

JUN 25 1972

Jack C. Silver, Clerk
U. S. DISTRICT COURT

ORDER

Now on this 25 day of June, 1972,
the above entitled cause comes on for hearing upon the
Stipulation of Plaintiff and Defendant, C. Watts Con-
struction Company, Inc., and National Indemnity Company,
well and fully advised finds that said cause with respect
to Plaintiff and Defendant, C. Watts Construction Company,
Inc., should be and the same is hereby dismissed.

Clara H. [Signature]
Judge

APPROVED:

James L. [Signature]
Attorney for Plaintiff

Attorney for Defendant,
C. WATTS CONSTRUCTION
COMPANY, INC. and
NATIONAL INDEMNITY COMPANY

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN
DISTRICT OF OKLAHOMA

THE FIRST NATIONAL BANK AND TRUST
COMPANY OF TULSA, a National
Banking Association,

Plaintiff,

-vs-

MIAMI INDUSTRIAL AUTHORITY, A Public
Trust, SECRETARY OF COMMERCE OF THE
UNITED STATES OF AMERICA, E. & J.
CONSTRUCTION COMPANY, INC., SOUTH-
WESTERN SASH & DOOR COMPANY, SHADE
STONE, O'BRIEN ROCK CO., INC.,
MILLER ELECTRIC SHOP, INC., GEORGE
SHAMBLIN, ANCO MANUFACTURING AND
SUPPLY COMPANY, GENE LONGAN, C. WATTS
CONSTRUCTION COMPANY, INC., CALVIN L.
WATTS, NATIONAL INDEMNITY COMPANY,
STEELCRAFT CORPORATION, JOHN GARRETT,
and CROWN, LTD., a limited partnership,

Defendants.

72-C-78
No. ~~C-71-356~~

FILED
JUN 25 1973
Jack C. Silver, Clerk
U. S. DISTRICT COURT

ORDER

Now on this 25 day of June, 1973,
the above entitled cause comes on for hearing upon the
Stipulation of Plaintiff and Defendant, Shade Stone, to dismiss
and the Court being well and fully advised finds that
said cause with respect to Plaintiff and Defendant, Shade
Stone, should be and the same is hereby dismissed.

Allen E. Bannow
Judge

APPROVED:

James R. Byr
Attorney for Plaintiff

Shade Stone
Attorney for Defendant,
SHADE STONE

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN
DISTRICT OF OKLAHOMA

THE FIRST NATIONAL BANK AND TRUST
COMPANY OF TULSA, a National
Banking Association,

Plaintiff,

-vs-

MIAMI INDUSTRIAL AUTHORITY, A Public
Trust, SECRETARY OF COMMERCE OF THE
UNITED STATES OF AMERICA, E. & J.
CONSTRUCTION COMPANY, INC., SOUTH-
WESTERN SASH & DOOR COMPANY, SHADE
STONE, O'BRIEN ROCK CO., INC.,
MILLER ELECTRIC SHOP, INC., GEORGE
SHAMBLIN, ANCO MANUFACTURING AND
SUPPLY COMPANY, GENE LONGAN, C. WATTS
CONSTRUCTION COMPANY, INC., CALVIN L.
WATTS, NATIONAL INDEMNITY COMPANY,
STEELCRAFT CORPORATION, JOHN GARRETT,
and CROWN, LTD., a limited partnership,

Defendants.

72-C-78
No. ~~071~~ 356

FILED

JUN 25 1973

Jack C. Silver, Clerk
U. S. DISTRICT COURT

ORDER

Now on this 25 day of June, 1972,
the above entitled cause comes on for hearing upon the
Stipulation of Plaintiff and Defendant, Gene Longan, to
dismiss and the Court being well and fully advised finds
that said cause with respect to Plaintiff and Defendant,
Gene Longan, should be and the same is hereby dismissed.

Allen E. Zarnad
Judge

APPROVED:

James R. Ryan
Attorney for Plaintiff

Melvin H. Landers
Attorney for Defendant,
GENE LONGAN

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN
DISTRICT OF OKLAHOMA

THE FIRST NATIONAL BANK AND TRUST
COMPANY OF TULSA, a National
Banking Association,

Plaintiff,

-vs-

MIAMI INDUSTRIAL AUTHORITY, A Public
Trust, SECRETARY OF COMMERCE OF THE
UNITED STATES OF AMERICA, E. & J.
CONSTRUCTION COMPANY, INC., SOUTH-
WESTERN SASH & DOOR COMPANY, SHADE
STONE, O'BRIEN ROCK CO., INC.,
MILLER ELECTRIC SHOP, INC., GEORGE
SHAMBLIN, ANCO MANUFACTURING AND
SUPPLY COMPANY, GENE LONGAN, C. WATTS
CONSTRUCTION COMPANY, INC., CALVIN L.
WATTS, NATIONAL INDEMNITY COMPANY,
STEELCRAFT CORPORATION, JOHN GARRETT,
and CROWN, LTD., a limited partnership,

Defendants.

No. 72-C-78 ✓
~~C-71-356~~

FILE
JUN 25 1973

Jack C. Silver, Clerk
U. S. DISTRICT COURT

ORDER

Now on this 25 day of June, 1973,
the above entitled cause comes on for hearing upon the
Stipulation of Plaintiff and Defendant, John Garrett,
to dismiss and the Court being well and fully advised
finds that said cause with respect to Plaintiff and Defendant,
John Garrett, should be and the same is hereby dismissed.

Allen E. Danon
Judge

APPROVED:

James R. [Signature]
Attorney for Plaintiff

[Signature]
Attorney for Defendant,
JOHN GARRETT

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN
DISTRICT OF OKLAHOMA

THE FIRST NATIONAL BANK AND TRUST)
COMPANY OF TULSA, a National)
Banking Association,)

Plaintiff,)

-vs-)

MIAMI INDUSTRIAL AUTHORITY, a Public)
Trust, SECRETARY OF COMMERCE OF THE)
UNITED STATES OF AMERICA, E. & J.)
CONSTRUCTION COMPANY, INC., SOUTH-)
WESTERN SASH & DOOR COMPANY, SHADE)
STONE, O'BRIEN ROCK CO., INC.,)
MILLER ELECTRIC SHOP, INC., GEORGE)
SHAMBLIN, ANCO MANUFACTURING AND)
SUPPLY COMPANY, GENE LONGAN, C. WATTS)
CONSTRUCTION COMPANY, INC., CALVIN L.)
WATTS, NATIONAL INDEMNITY COMPANY,)
STEELCRAFT CORPORATION, JOHN GARRETT,)
and CROWN, LTD., a limited partnership,)

Defendants.)

72-C-78
No. ~~71-356~~

FILED

JUN 25 1973 *hm*

Jack C. Silver, Clerk
U. S. DISTRICT COURT

ORDER

Now on this 25 day of June, 1973,
the above entitled cause comes on for hearing upon the
Stipulation of Plaintiff and Defendant, Miller Electric
Shop, Inc., to dismiss and the Court being well and
fully advised finds that said cause with respect to
Plaintiff and Defendant, Miller Electric Shop, Inc.,
should be and the same is hereby dismissed.

Cleen E. Brown
Judge

APPROVED:

James R. Byer
Attorney for Plaintiff

Wayne Miller
Attorney for Defendant,
Miller Electric Shop, Inc.

United States District Court

FOR THE

NORTHERN DISTRICT OF OKLAHOMA

Charles Cline, Inc., and
Cline Leasing, Inc.

CIVIL ACTION FILE NO. 70-C-122

vs.
A.L. Zaepfel, Jr., d/b/a
A.L. Zaepfel, Jr., General
Insurance, Russell Grace,
d/b/a Russell Grace Insurance
Agency, John Chervenak, Andrew
J. Embry, and James L. Ladd

JUDGMENT E D

JUN 25 1973

Jack C. Silver, Clerk
U. S. DISTRICT COURT

This action came on for trial before the Court and a jury, Honorable Allen E. Barrow

, United States District Judge, presiding, and the issues having been duly tried and

the jury having duly rendered its verdict, for the plaintiffs, Charles Cline, Inc., and Cline Leasing, Inc., and against the defendant James L. Ladd.

IT IS ORDERED AND ADJUDGED that the plaintiffs, Charles Cline, Inc., and Cline Leasing, Inc., have and recover judgment against the defendant James L. Ladd, in the sum of Twenty Six Thousand, Seven Hundred Twenty Five Dollars and Sixty Eight Cents (\$26,725.68) compensatory damages, and One Hundred Thousand Dollars (\$100,000.00) exemplary damages, with interest thereon at the rate of 10% per annum from the date hereof until paid and their cost of action.

Dated at Tulsa, Oklahoma
of June 1973.

this 25th day

JACK C. SILVER
Clerk of Court

Reginald A. Loomis,
deputy clerk

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

ROBERT HAROLD HELMS,

Petitioner,

-vs-

PARK J. ANDERSON, Warden, et al.,

Respondents.

Case No. 72-C-337

FILED

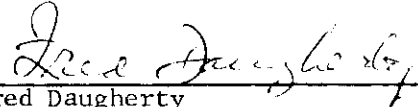
JUN 22 1973

Jack C. Silver, Clerk
U. S. DISTRICT COURT

O R D E R

Upon consideration of the Respondents' Motion To Dismiss and Memorandum Brief in Support of Motion and it appearing therefrom that the State of Oklahoma has taken action to grant the Petitioner herein, an Oklahoma State prisoner, an evidentiary hearing on the two points raised in this federal habeas corpus proceeding and it further appearing that the remedy being so afforded Petitioner by Oklahoma is thus available to him, is adequate and is underway and that in these circumstances Petitioner's available state remedies have not been exhausted on these two points as required by 28 U.S.C. §2254(b), the Court finds that said Motion should be granted and the Petitioner's action in this Court should be dismissed without prejudice.

It is so ordered this 22nd day of June, 1973.


Fred Daugherty
United States District Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.)
)
RICHARD LEWALLEN,)
)
Defendant.)

12 5
1973
Jack C. Silver, Clerk
U. S. DISTRICT COURT

Civil Action No. 73-C-116

J U D G M E N T

On this 22nd day of June, 1973, the above-captioned cause came on for entry of judgment by consent of the parties hereto, and the Court finds that judgment should be entered as agreed by the parties hereto.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED BY THE COURT that the Plaintiff, United States of America, have and recover of and from the Defendant, Richard Lewallen, the sum of \$500.00, as a civil penalty, plus costs of this action in the amount of \$41.84.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED BY THE COURT that the Defendant, Richard Lewallen, his agents and employees are permanently enjoined from engaging in business in commerce within the meaning of the Packers and Stockyards Act, 1921, as amended and supplemented, in any capacity for which registration and bonding are required under the Act, without being registered with the Secretary of Agriculture and furnishing a valid bond or its equivalent, as required by the Act and the regulations promulgated thereunder.

Fred Daugherty

UNITED STATES DISTRICT JUDGE

The undersigned counsel for the respective parties do hereby consent to entry of Judgment as set forth above.

NATHAN G. GRAHAM
United States Attorney

JACK M. SHORT
Assistant United States Attorney
Attorneys for Plaintiff

S/Thomas G. Marsh
THOMAS G. MARSH
Attorney for Defendant

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
)
Plaintiff,)
vs.) CIVIL ACTION NO. 73-C-128
)
)
CONNIE LEN CLARK and)
JOY A. CLARK,)
)
Defendants.)

JUDGMENT OF FORECLOSURE

U. S. DISTRICT COURT

THIS MATTER COMES on for consideration this 22 day
of June, 1973, the plaintiff appearing by Robert P. Santee,
Assistant United States Attorney, and the defendants, Connie Len
Clark and Joy A. Clark, appearing not.

The Court being fully advised and having examined
the file herein finds that Connie Len Clark and Joy A. Clark
were served with Summons and Complaint on May 23, 1973, as ap-
pears from the Marshal's Return of Service herein, and

It appearing that the said defendants have failed
to answer herein and that default has been entered by the
Clerk of this Court.

The Court further finds that this is a suit based
upon a mortgage note and foreclosure on a real property mortgage
securing said mortgage note and that the following described
real property is located in Tulsa County, Oklahoma, within
the Northern Judicial District of Oklahoma:

Lot Nine (9), Block Four (4), SUBURBAN
ACRES FOURTH ADDITION to the City of Tulsa,
County of Tulsa, State of Oklahoma, accord-
ing to the recorded Plat thereof.

THAT the defendants, Connie Len Clark and Joy A. Clark,
did, on 12th day of August, 1966, execute and deliver to Administrator
of Veterans Affairs, their mortgage and mortgage note in the
sum of \$9,750.00 with 6 per cent interest per annum, and further
providing for the payment of monthly installments of principal
and interest; and

The Court further finds that the defendants,


Connie Len Clark and Joy A. Clark, made default under the terms of the aforesaid mortgage note by reason of their failure to make monthly installments due thereon for more than 12 months last past, which default has continued and that by reason thereof the above-named defendants are now indebted to the plaintiff in the sum of \$9,075.82 as unpaid principal, with interest thereon at the rate of 6 per cent interest per annum from June 1, 1972, until paid, plus the cost of this action accrued and accruing.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the plaintiff have and recover judgment against defendants, Connie Len Clark and Joy A. Clark, in personam, for the sum of \$9,075.82 with interest thereon at the rate of 6 per cent per annum from June 1, 1972, plus the cost of this action accrued and accruing, plus any additional sums advanced or to be advanced or expended during this foreclosure action by plaintiff for taxes, insurance, abstracting, or sums for the preservation of the subject property.

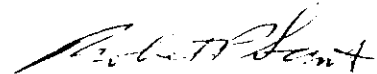
IT IS FURTHER ORDERED, ADJUDGED AND DECREED that upon the failure of said defendants to satisfy plaintiff's money judgment herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell, with appraisement the real property and apply the proceeds thereof in satisfaction of plaintiff's judgment. The residue, if any, to be deposited with the Clerk of the Court to await further order of the Court.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that from and after the sale of said property, under and by virtue of this judgment and decree, all of the defendants and each of them and all persons claiming under them since the filing of the complaint herein be and they are forever barred and

foreclosed of any right, title, interest or claim in or to
the real property or any part thereof.


United States District Judge

APPROVED.


ROBERT P. SANTEE
Assistant United States Attorney

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
)
Plaintiff,)
vs.) CIVIL ACTION NO. 73-C-132
)
JAMES K. KILA, BERYL M. KILA,)
WINIFRED DALE MUNDAY and)
BOBBIE DEAN MUNDAY,)
)
Defendants.)

JUDGMENT OF FORECLOSURE

THIS MATTER COMES on for consideration this 22 day
of June, 1973, the plaintiff appearing by Robert P. Santee,
Assistant United States Attorney, and the defendants, James K.
Kila, Beryl M. Kila, Winifred Dale Munday and Bobbie Dean Munday,
appearing not.

The Court being fully advised and having examined
the file herein finds that James K. Kila and Beryl M. Kila were
served with Summons and Complaint on May 3, 1973; that Winifred
Dale Munday and Bobbie Dean Munday were served with Summons and
Complaint on May 17, 1973, all as appears from the Marshal's
Return of Service herein, and

It appearing that the said defendants have failed
to answer herein and that default has been entered by the
Clerk of this Court.

The Court further finds that this is a suit based
upon a mortgage note and foreclosure on a real property mortgage
securing said mortgage note and that the following described
real property is located in Tulsa County, Oklahoma, within
the Northern Judicial District of Oklahoma:

Lot Seven (7), Block Fifty-five (55), VALLEY
VIEW ACRES THIRD ADDITION to the City of
Tulsa, Tulsa County, Oklahoma, according to
the recorded plat thereof.

THAT the defendants, James K. Kila and Beryl M. Kila,
did, on 29th day of March, 1968, execute and deliver to Admini-
strator of Veterans Affairs, their mortgage and mortgage note

in the sum of \$10,250.00 with 6 per cent interest per annum, and further providing for the payment of monthly installments of principal and interest; and

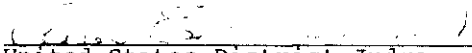
The Court further finds that the defendants, James K. Kila and Beryl M. Kila, made default under the terms of the aforesaid mortgage note by reason of their failure to make monthly installments due thereon for more than 12 months last past, which default has continued and that by reason thereof the above-named defendants are now indebted to the plaintiff in the sum of \$9,686.43 as unpaid principal, with interest thereon at the rate of 6 per cent interest per annum from March 29, 1972, until paid, plus the cost of this action accrued and accruing.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the plaintiff have and recover judgment against defendants, James K. Kila and Beryl M. Kila, in personam, for the sum of \$9,686.43 with interest thereon at the rate of 6 per cent per annum from March 29, 1972, plus the cost of this action accrued and accruing, plus any additional sums advanced or to be advanced or expended during this foreclosure action by plaintiff for taxes, insurance, abstracting, or sums for the preservation of the subject property.

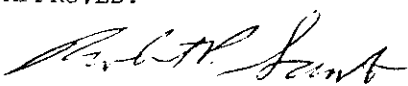
IT IS FURTHER ORDERED, ADJUDGED AND DECREED that upon the failure of said defendants to satisfy plaintiff's money judgment herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell, with appraisement the real property and apply the proceeds thereof in satisfaction of plaintiff's judgment. The residue, if any, to be deposited with the Clerk of the Court to await further order of the Court.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that from and after the sale of said property, under and by virtue of this judgment and decree, all of the defendants and each of them and all persons claiming under them since the filing

of the complaint herein be and they are forever barred and foreclosed of any right, title, interest or claim in or to the real property or any part thereof.


United States District Judge

APPROVED.


ROBERT P. SANTEE
Assistant United States Attorney

FILE

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

JUN 22 1973

Jack C. Silver, Clerk
U. S. DISTRICT COURT

UNITED STATES OF AMERICA,)
)
Plaintiff,)
vs.) CIVIL ACTION NO. 73-C-136
)
HERMAN M. LOOKOUT,)
JUDITH K. LOOKOUT and)
AMIE E. KINMON,)
)
Defendants.)

JUDGMENT OF FORECLOSURE

THIS MATTER COMES on for consideration this 22nd day
19 of June, 1973, the plaintiff appearing by Robert P. Santee,
Assistant United States Attorney, and the defendants, Herman M.
Lookout, Judith K. Lookout, and Amie E. Kinmon, appearing
not.

The Court being fully advised and having examined
the file herein finds that Herman M. Lookout and Judith K. Lookout
were served with Summons and Complaint on May 1, 1973; that
Amie E. Kinmon was served with Summons and Complaint on May 3,
1973, all as appears from the Marshal's Return of Service herein,
and

It appearing that the said defendants have failed
to answer herein and that default has been entered by the
Clerk of this Court.

The Court further finds that this is a suit based
upon a mortgage note and foreclosure on a real property mortgage
securing said mortgage note and that the following described
real property is located in Tulsa County, Oklahoma, within
the Northern Judicial District of Oklahoma:

Lot Five (5), Block Six (6), SUBURBAN
ACRES FOURTH ADDITION to the City of
Tulsa, County of Tulsa, State of Oklahoma,
according to the recorded plat thereof.

THAT the defendants, Herman M. Lookout and Judith K.
Lookout, did, on the 8th day of February, 1968, execute and
deliver to Administrator of Veterans Affairs, their mortgage

and mortgage note in the sum of \$10,000.00 with 6 per cent interest per annum, and further providing for the payment of monthly installments of principal and interest; and

The Court further finds that the defendant, Amie E. Kinmon, was the grantee in a deed from Herman M. Lookout and Judith K. Lookout dated April 28, 1971, and filed May 5, 1971, in Book 3967, Page 241, records of Tulsa County, wherein Amie E. Kinmon assumed and agreed to pay the mortgage indebtedness being sued upon herein.

The Court further finds that the defendants, Herman M. Lookout, Judith K. Lookout, and Amie E. Kinmon, made default under the terms of the aforesaid mortgage note by reason of their failure to make monthly installments due thereon for more than 12 months last past, which default has continued and that by reason thereof the above-named defendants are now indebted to the plaintiff in the sum of \$9,549.68 as unpaid principal, with interest thereon at the rate of 6 per cent interest per annum from October 1, 1971, until paid, plus the cost of this action accrued and accruing.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the plaintiff have and recover judgment against defendants, Herman M. Lookout, Judith K. Lookout, and Amie E. Kinmon, in personam, for the sum of \$9,549.68 with interest thereon at the rate of 6 per cent per annum from October 1, 1971, plus the cost of this action accrued and accruing, plus any additional sums advanced or to be advanced or expended during this foreclosure action by plaintiff for taxes, insurance, abstracting, or sums for the preservation of the subject property.

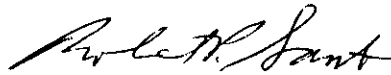
IT IS FURTHER ORDERED, ADJUDGED AND DECREED that upon the failure of said defendants to satisfy plaintiff's money judgment herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell, with appraisement the real property and apply the proceeds thereof in satisfaction of plaintiff's judgment. The residue, if any, to be deposited

with the Clerk of the Court to await further order of the Court.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that from and after the sale of said property, under and by virtue of this judgment and decree, all of the defendants and each of them and all persons claiming under them since the filing of the complaint herein be and they are forever barred and foreclosed of any right, title, interest or claim in or to the real property or any part thereof.


United States District Judge

APPROVED.


ROBERT P. SANTEE
Assistant United States Attorney

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

WILLIAM LYNN STRINGFIELD,)
)
 Petitioner,)
)
 vs.)
)
 JOHN GRIDER, Warden, Oklahoma)
 State Reformatory, Granite,)
 Oklahoma,)
)
 Respondent.)

72-C-236

FILED

JUN 21 1973

Jack C. Silver, Clerk

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ENTRY OF JUDGMENT
U. S. DISTRICT COURT

THE COURT, having examined the files and records of this proceeding, together with the files and records in State of Oklahoma vs. William Lynn Stringfield, Case No. CRF-71-27 in the District Court of Tulsa County, State of Oklahoma, including the transcript of the proceedings had in said matter, and the Second Report of the United States Magistrate concerning the same and being fully advised in the premises, makes the following findings of fact, conclusions of law and entry of judgment:

A. FINDINGS OF FACT:

1. This is an original habeas corpus action brought under Title 28 U.S.C. § 2254 et seq. by the petitioner to vacate and set aside a state conviction and sentence of five years imprisonment imposed upon him by the District Court of Tulsa County, Oklahoma in Case Number CRF 71-27, for the offense of Second Degree Burglary.

2. The petitioner is a member of the male sex, and was born on December 9, 1953. Therefore, the petitioner was 17 years of age on January 4, 1971, the date upon which he is alleged to have committed the offense in question and was 17 years of age during all stages of the state court prosecution. In 1971 in Oklahoma, there existed a discrimination between males and females in the 16 to 18

year old category in that males were considered accountable as adults for the purposes of criminal prosecution at age 16, whereas females continued to enjoy the benefits and leniency of Oklahoma's juvenile code until their attainment of the age of 18. Title 10 O.S. 1970 Supp., § 1101(a).

3. The petitioner pleaded guilty to the charge in question on March 11, 1971. However, under the provisions of the "deferred sentence" procedure then obtaining in Oklahoma, Title 22 O.S. § 991(a), the Tulsa County District Court declined to formally impose sentence at that time, but instead "deferred" the imposition of sentence for a two-year period (until March 11, 1973), conditioned upon the petitioner's good behavior and compliance with certain conditions of "probation", and assuming completion of the two years under the deferred sentence scheme petitioner would have been allowed to withdraw the plea and the case would be dismissed. The deferred sentence differed from the suspended sentence, and from actual probation, in that under the deferred sentence the defendant would not actually suffer a conviction.

4. On August 9, 1971 the State of Oklahoma filed an application to accelerate judgment and sentence in the case against the petitioner. Functionally this procedure is equivalent to revocation of a conventional suspended sentence.

5. On August 30, 1971, the Tulsa County District Court ordered the imposition of petitioner's sentence be "accelerated" and thereupon sentenced the petitioner to a term of five years imprisonment.

6. The basis for "accelerating" petitioner's sentence was "refusing to obtain and keep employment", "by violating his curfew as set out in the rules", and "by refusing to obey instruction of

his probation officer". No further elaboration of the cause of petitioner's "acceleration" appears in the record.

7. Petitioner perfected a proper petition for Writ of Certiorari to the Oklahoma Court of Criminal Appeals. This was the statutory method of seeking a review from a plea of guilty. That petition raised the issues presented in this action. The petition was denied without opinion on November 1, 1971, in William Stringfield vs. The State of Oklahoma, Okl. Cr., No. A 17042, unreported.

8. Thereafter petitioner pursued a statutory application for post-conviction relief, which was filed in the original Tulsa County District Court action under the Oklahoma Post Conviction Act, Title 22 O.S. §§ 1080 et seq. That action again raised all the issues presented in this action. The application was denied on July 7, 1972.

9. The habeas corpus proceeding was then filed before this Court. At that time petitioner was physically incarcerated in the Oklahoma State Reformatory at Granite, Oklahoma, in the actual custody of John Grider, Warden. Since the filing of the instant petition the petitioner has been released on parole, and pursuant to Rule 21, Federal Rules of Civil Procedure, Sam Isaacs, Parole Officer, Department of Corrections, State of Oklahoma, should be added as a party respondent.

10. In this action the petitioner has urged two grounds for relief: First, that it was an unconstitutional discrimination, based upon sex, and violative of the Equal Protection Clause of the Fourteenth Amendment, to prosecute and punish 16 to 18 year old males as adults and felons for their offenses when 16 to 18 year old females were being processed only as juveniles and delinquents for their misconduct; that such discrimination was expressly held unconstitutional in the case of Lamb vs. Brown (10th Cir. 1972) 456 F.2d 18 and that Lamb vs. Brown must be viewed as fully retro-

active so as to be applicable to petitioner in view of such decisions as Woodall vs. Pettibone (4th Cir., 1972) 465 F.2d 49 and Robinson vs. Neil (1973) ____ U.S. ____, 93 S. Ct. 876.

Second, the petitioner contends that the State Court's imposition of a five year sentence was improper in that the original "deferral" for two years constituted, in substance, a sentence to two years on a probationary status; that even if properly revoked, an increase to five years constitutes a violation of the Double Jeopardy guarantee and Due Process guarantees of the U. S. Constitution. See North Carolina vs. Pearce (1969) 395 U.S. 711. And, in any event the severity of the increase is grossly disproportionate to the assertedly trivial nature of petitioner's probationary wrongdoings. Further petitioner contends that the alleged failure at succeeding in or pursuing economic endeavor cannot be constitutionally utilized as a grounds for revocation or acceleration.

11. The Attorney General of the State of Oklahoma, for the respondent, resists the first ground for relief on the basis that: (1) Lamb vs. Brown, supra., is, by its own terms non-retroactive; and, (2) that in any event, subsequent state decisions have interpreted Lamb vs. Brown, Supra., as having reduced the age of accountability to the age of 14, citing Schaffer vs. Green (Okla. Cr., 1972) 496 P.2d 375 and Dixon vs. State (Okla. Cr., 1972) 497 P.2d 1110.

The Attorney General defends the second ground for relief on the basis that a "deferral" of a sentence does not constitute a "sentence" or "punishment" for double jeopardy purposes, and that until sentence was formally imposed, the trial court still had full discretion to impose any sentence within the established range of punishment for the offense; and that the probationary violations

enumerated in the application to "accelerate" were sufficient to revoke or accelerate the petitioner's probationary or deferred status.

12. These and related matters were discussed at the pre-trial hearing before the Magistrate held herein on January 4, 1973, at which time certain factual and documentary items were offered and/or agreed to. The Magistrate then directed briefs to be submitted on the issues, and also the Attorney General in the Order to respond to the petitioner's Petition for Habeas Corpus, was directed to submit a transcript of the petitioner's acceleration proceedings.

13. Briefs were thereafter submitted by both sides but the above mentioned transcript has never been supplied.

B. CONCLUSIONS OF LAW:

1. This Court has jurisdiction and venue over the instant cause. Title 28 U.S.C. § 2254 (d) and the requirement of exhaustion of state remedies has been met by the filing of an application for Writ of Certiorari to the Oklahoma Court of Criminal Appeals and by the filing of an application for Post Conviction Relief, both raising the issues herein presented. Jurisdiction is retained notwithstanding the petitioner's release on parole. Jones vs. Cunningham (1962) 371 U. S. 236; Carafas vs. LaVallee (1967) 391 U. S. 3060.

2. The Court finds that Petitioner's conviction and punishment as an adult, for an offense committed when he was but 17 years of age, and at a time when a 17 year old female would only have been processed as a juvenile therefor, was and is in violation of the Equal Protection of the Laws Clause of the Fourteenth Amendment to the United States Constitution. Lamb vs. Brown (10th Cir., 1972) 456 F.2d 18; Reed vs. Reed (1971) 404 U.S. 71; see also Long vs. Robinson (D.C. Md., 1970) 316 F. Supp. 22, aff'd. 436 F.2d 1116 (4th Cir., 1971).

The Court is also persuaded that the Lamb vs. Brown case, supra., must also apply retroactively, despite dictum therein to the opposite effect. Not only was the question of retroactivity not before the Tenth Circuit in Lamb as an issue but also the question of retroactivity has been resolved favorably to the petitioner in two persuasive and controlling Federal opinions rendered since Lamb vs. Brown was decided.

The first, Woodall vs. Pettibone (4th Cir., 1972) 465 F.2d 49, cert. pend., considered a situation arising in the State of Maryland virtually identical with the factual situation presented by petitioner's case. Under the Maryland juvenile code, a youngster in Baltimore was deemed criminally accountable as an adult at age 16, but youths elsewhere in Maryland continued to enjoy juvenile status to age 18. In the Long vs. Robinson cases cited above, 316 F. Supp. 22, 436 F.2d 1116, the Fourth Circuit held that discrimination to be unconstitutional as applied to those unfavored youths 16 to 18 years of age charged with adult offenses in Baltimore, and ordered their purported adult convictions vacated. However, the Fourth Circuit declined to pass on the retroactivity of its ruling at that time.

In Woodall vs. Pettibone, supra., the Fourth Circuit squarely faced the retroactivity problem posed by its Long vs. Robinson decision; and, in a carefully researched and well reasoned opinion held that its decision in Long vs. Robinson would have to apply retroactively. To summarize the Woodall opinion, the Fourth Circuit concluded that the rule of prospectivity appeared to apply primarily with new decisions establishing novel rules of procedure; but that the more fundamental or substantive the nature of the new ruling

the more the Courts apply the rule retroactively. The Fourth Circuit concluded that the discrimination against the unfavored youngsters to be so basic and severe that it would be a fundamental injustice to deny to them the benefit of the Long vs. Robinson rule.

Thereafter in January of this year the United States Supreme Court clarified the situation regarding whether a new decision would apply prospectively or retroactively. In Robinson vs. Neil (1973) U.S. , 93 S. Ct. , Mr. Justice Rehnquist, writing for a unanimous Court, reiterated that the full retroactivity of new decisions based on constitutional considerations is still the "general rule" and he further pointed out that most of the Supreme Court's new decisions which were restricted to a prospective application fell into the category of evidentiary matters or having to do with new rules of procedure. The Court also emphasized that decisions related to "the integrity of the fact-finding process" are not the only ones to enjoy a retroactive application.

3. This Court, applying the rule of Robinson vs. Neil, supra., concludes that the guarantee of Equal Protection of the Laws is significantly and inherently different from procedural guarantees which have been held to have prospective effect only. Had there been in effect in Oklahoma at the time of petitioner's conviction as an adult, a non-discriminatory statute whereby all persons to the age of 18 would have been treated as juveniles, rather than only females being so treated, the result would have been to prevent the adult proceedings from having taken place at all - absent a proper certification - and thus the then existing juvenile code in Oklahoma, Title 10 O.S. 1970 Supp. § 1101(a), was not one prescribing procedural rules which govern the conduct of a trial, even though the trial (as an adult) "might have been conducted with a scrupulous regard for all the constitutional procedural rights of the defendant".

4. In consideration of Robinson vs. Neil, supra., and Woodall vs. Pettibone, supra., and in view of the fundamental issues and rights at stake in this case and as decided by Lamb vs. Brown, supra., the Court concludes that Woodall and Robinson control, and the Court holds Lamb vs. Brown (10th Cir., 1972) 456 F.2d 18 to have retroactive application and hence available to petitioner, and applicable to his instant litigation.

5. Having concluded that Lamb vs. Brown, supra., applies to this case the Court finds that the contention of the Attorney General that all convictions are valid if occurring after the person reaches the age of 14 overlooks the fact that in Lamb the petitioner, Lamb, had his conviction vacated and set aside. Since the conviction of the petitioner, Stringfield, suffers from the same Constitutional defect as did that of Lamb, and since the Court finds that the decision in Lamb is applicable to this cause, the result must be that petitioner Stringfield's conviction is also void.

6. In view of the fact that the Court grants to petitioner relief on the basis presented in his first contention, it becomes unnecessary for the Court to pass upon his other contention that his "acceleration", resulting in an increased sentence of from two to five years, is in violation of his constitutional rights.

IT IS, THEREFORE, ORDERED:

1. That Sam Isaacs, Probation and Parole Officer, Department of Corrections, State of Oklahoma, be and he is hereby added as a party respondent.

2. That the petitioner's motion pursuant to § 2254, Title 28, U.S.C., is granted.

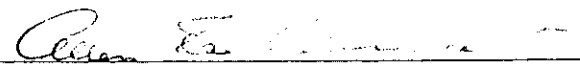
3. That a copy of this Order be mailed by the Clerk of this Court to the petitioner, together with a copy of the Second Report of the United States Magistrate.

4. That the Clerk of this Court furnish to respondent a copy of this Order, together with a copy of the Second Report of the

United States Magistrate, by mailing the same to the Attorney
General of the State of Oklahoma, State Capitol, Oklahoma City,
Oklahoma.

5. That counsel for petitioner prepare and submit a formal
Writ of Habeas Corpus.

Dated this 21st day of June, 1973.


CHIEF JUDGE, UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA.

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

EUGENE EDWARD MASON and
GLENDA DIANE MASON,

Defendants.)

CIVIL ACTION NO. 73-C-135 ✓

FILED

JUN 21 1973

Jack C. Silver, Clerk
U. S. DISTRICT COURT

JUDGMENT OF FORECLOSURE

THIS MATTER COMES on for consideration this 19 day
of June, 1973, the plaintiff appearing by Robert P. Santee,
Assistant United States Attorney, and the defendants, Eugene
Edward Mason and Glenda Diane Mason, appearing not.

The Court being fully advised and having examined
the file herein finds that Eugene Edward Mason and Glenda Diane
Mason were served with Complaint and Summons on May 3, 1973, as
appears from the Marshal's Return of Service herein, and

It appearing that the said defendants have failed
to answer herein and that default has been entered by the
Clerk of this Court.

The Court further finds that this is a suit based
upon a mortgage note and foreclosure on a real property mortgage
securing said mortgage note and that the following described
real property is located in Tulsa County, Oklahoma, within
the Northern Judicial District of Oklahoma:

Lot Twenty-six (26), Block Four (4) in
HARTFORD HILLS ADDITION to the City of
Tulsa, County of Tulsa, State of Oklahoma,
according to the recorded plat thereof.

THAT the defendants, Eugene Edward Mason and Glenda
Diane Mason, did, on the 28th day of April, 1971, execute
and deliver to Administrator of Veterans Affairs, their mortgage
and mortgage note in the sum of \$10,250.00 with 4 1/2 per
cent interest per annum, and further providing for the payment
of monthly installments of principal and interest; and

The Court further finds that the defendants, Eugene Edward Mason and Glenda Diane Mason, made default under the terms of the aforesaid mortgage note by reason of their failure to make monthly installments due thereon for more than 12 months last past, which default has continued and that by reason thereof the above-named defendants are now indebted to the plaintiff in the sum of \$10,099.47 as unpaid principal, with interest thereon at the rate of 4 1/2 per cent interest per annum from April 28, 1972, until paid, plus the cost of this action accrued and accruing.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the plaintiff have and recover judgment against defendants, Eugene Edward Mason and Glenda Diane Mason, in personam, for the sum of \$10,099.47 with interest thereon at the rate of 4 1/2 per cent per annum from April 28, 1972, plus the cost of this action accrued and accruing, plus any additional sums advanced or to be advanced or expended during this foreclosure action by plaintiff for taxes, insurance, abstracting, or sums for the preservation of the subject property.

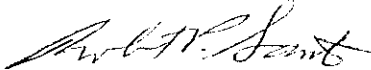
IT IS FURTHER ORDERED, ADJUDGED AND DECREED that upon the failure of said defendants to satisfy plaintiff's money judgment herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell, with appraisement the real property and apply the proceeds thereof in satisfaction of plaintiff's judgment. The residue, if any, to be deposited with the Clerk of the Court to await further order of the Court.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that from and after the sale of said property, under and by virtue of this judgment and decree, all of the defendants and each of them and all persons claiming under them since the filing of the complaint herein be and they are forever barred and

foreclosed of any right, title, interest or claim in or to
the real property or any part thereof.


United States District Judge

APPROVED.



ROBERT P. SANTEE

Assistant United States Attorney

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)	
)	
	)	Plaintiff,
vs.)	
	)	CIVIL ACTION NO. 73-C-133
)	
CLIFFORD DEFFEBAUGH and)	
EVA LOIS DEFFEBAUGH,)	
)	
	)	Defendants,)

FILED

JUN 20 1973

Jack C. Silver, Clerk
U. S. DISTRICT COURT

JUDGMENT OF FORECLOSURE

THIS MATTER COMES on for consideration this 19 day
of June, 1973, the plaintiff appearing by Robert P. Santee,
Assistant United States Attorney, and the defendants, Clifford
Deffebaugh and Eva Lois Deffebaugh, appearing not.

The Court being fully advised and having examined
the file herein finds that the above-named defendants were
served with Complaint and Summons on May 3, 1973, as appears
from the Marshal's Return of Service herein, and

It appearing that the said defendants have failed
to answer herein and that default has been entered by the
Clerk of this Court.

The Court further finds that this is a suit based
upon a mortgage note and foreclosure on a real property mortgage
securing said mortgage note and that the following described
real property is located in Tulsa County, Oklahoma, within
the Northern Judicial District of Oklahoma:

Lot Twenty-five (25), Block Thirty-six (36),
VALLEY VIEW ACRES SECOND ADDITION to the
City of Tulsa, Tulsa County, Oklahoma,
according to the recorded plat thereof.

THAT the defendants, Clifford Deffebaugh and Eva
Lois Deffebaugh, did, on the 22nd day of March, 1971, execute
and deliver to Administrator of Veterans Affairs, their mortgage
and mortgage note in the sum of \$10,500.00 with 8 per cent
interest per annum, and further providing for the payment
of monthly installments of principal and interest; and

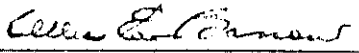
The Court further finds that the defendants, Clifford Deffebaugh and Eva Lois Deffebaugh, made default under the terms of the aforesaid mortgage note by reason of their failure to make monthly installments due thereon for more than 12 months last past, which default has continued and that by reason thereof the above-named defendants are now indebted to the plaintiff in the sum of \$10,422.95 as unpaid principal, with interest thereon at the rate of 8 per cent interest per annum from April 1, 1972, until paid, plus the cost of this action accrued and accruing.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the plaintiff have and recover judgment against defendants, Clifford Deffebaugh and Eva Lois Deffebaugh, in personam, for the sum of \$10,422.95 with interest thereon at the rate of 8 per cent per annum from April 1, 1972, plus the cost of this action accrued and accruing, plus any additional sums advanced or to be advanced or expended during this foreclosure action by plaintiff for taxes, insurance, abstracting, or sums for the preservation of the subject property.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that upon the failure of said defendants to satisfy plaintiff's money judgment herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell, with appraisement the real property and apply the proceeds thereof in satisfaction of plaintiff's judgment. The residue, if any, to be deposited with the Clerk of the Court to await further order of the Court.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that from and after the sale of said property, under and by virtue of this judgment and decree, all of the defendants and each of them and all persons claiming under them since the filing of the complaint herein be and they are forever barred and

foreclosed of any right, title, interest or claim in or to
the real property or any part thereof.


United States District Judge

APPROVED.


ROBERT P. SANTEE
Assistant United States Attorney

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

JUN 19 1973

United States of America,)
)
Plaintiff,)
)
vs.)
)
30.00 Acres of Land, More or)
Less, Situate in Nowata County,)
State of Oklahoma, and H.)
Stuart Milam, et al., and)
Unknown Owners,)
)
Defendants.)

Jack C. Silver, Clerk
U. S. DISTRICT COURT

CIVIL ACTION NO. 71-C-148

Tract No. 1901M

J U D G M E N T

1.

NOW, on this 19 day of June, 1973, this matter comes on for disposition on application of the Plaintiff, United States of America, for entry of judgment on the Report of Commissioners filed herein on March 16, 1973, and the Court after having examined the files in this action and being advised by counsel for the Plaintiff, finds that:

2.

The Court has jurisdiction of the parties and the subject matter of this action.

3.

This judgment applies to the entire estate condemned in Tract No. 1901M, as such estate and tract are described in the Complaint filed in this action.

4.

Service of Process has been perfected either personally or by publication notice, as provided by Rule 71A of the Federal Rules of Civil Procedure, on all parties defendant in this cause, who are interested in subject property.

5.

The Acts of Congress set out in paragraph 2 of the Complaint filed herein give the United States of America the right, power and authority to condemn for public use the subject property.

Pursuant thereto, on April 26, 1971 the United States of America filed its Declaration of Taking of a certain estate in such tract of land, and title to such property should be vested in the United States of America, as of the date of filing such Declaration of Taking.

6.

Simultaneously with filing the Declaration of Taking, there was deposited in the Registry of this Court as estimated compensation for the taking of the described estate in the subject tract, a certain sum of money, and part of this deposit has been disbursed.

7.

The Report of Commissioners filed herein on March 16, 1973, is hereby accepted and adopted as findings of fact as it applies to the subject tract. The amount of just compensation as to the various interests in subject tract, as fixed by the Commissioners, is set out below in paragraph 13.

8.

This judgment will create a deficiency in the amount deposited as estimated just compensation for the lessor interest in subject property, and the Plaintiff should deposit a sum sufficient to cover such deficiency. The calculation of such deficiency is set out below in paragraph 13.

9.

The amount deposited as estimated compensation for the working (lessee) interest in the estate taken in the subject tract is greater than the sum awarded as just compensation for such interest as shown below in paragraph 13. The owner of such interest has withdrawn the entire amount of estimated compensation for his interest. The owner of such interest, therefore, has received an overpayment, which he should refund into the Registry of the Court.

10.

The defendants named in paragraph 13 as owners of subject property are the only defendants asserting any interest in the estate condemned herein. All other defendants having either

disclaimed or defaulted, the named defendants, as of the date of taking, were the owners of the respective interests in the estate condemned herein, as shown in such paragraph 13, and, as such, are entitled to receive the just compensation awarded by this judgment.

11.

It Is, Therefore, ORDERED, ADJUDGED and DECREED that the United States of America has the right, power, and authority to condemn for public use the subject tract, as such tract is described in the Complaint filed herein, and such property, to the extent of the estate described in such Complaint, is condemned, and title thereto is vested in the United States of America, as of April 26, 1971, and all defendants herein and all other persons are forever barred from asserting any claim to such estate.

12.

It Is Further ORDERED, ADJUDGED and DECREED that on the date of taking, the owners of the estate taken in the subject tract were the defendants whose names appear below in paragraph 13, and the interest owned by each is as therein shown. The right to receive the just compensation awarded by this judgment is vested in the parties so named in paragraph 13.

13.

It Is Further ORDERED, ADJUDGED and DECREED that the Report of Commissioners filed herein on March 16, 1973, is hereby confirmed, and the sum therein fixed is adopted as just compensation for the estate taken in subject tract; and such award is allocated among the various interests in subject property, as shown by the following schedule:

TRACT NO. 1901M

1. Lessor (mineral) interest:

Owners:

Louis Kahan -----	1/8
Sara Esther Kahan -----	1/16
Ronia Faye Kahan -----	1/16
Carey and Company, a co-partnership -----	1/4
The First National Bank and Trust Company of Tulsa, Trustee of the Helen Whitehill Kenyon Trust -----	1/4
The First National Bank and Trust Company of Tulsa, Trustee of the Juliann W. Funke Living Trust -----	1/4

Award of just compensation pursuant to Commissioners' Report -----	\$1,303.00	\$1,303.00
Deposited as estimated compensation -----	\$1,196.00	
Disbursed to owners -----		None
Balance due to owners -----		\$1,303.00 plus interest
Deposit deficiency -----	\$107.00	

2. Working interest:

Owner: H. S. Milam

Deposited as estimated compensation, and disbursed to the owner ----- \$4,341.00

Award of just compensation pursuant to Commissioners' Report ----- \$1,500.00

Overpayment to owner ----- \$2,841.00

14.

It Is Further ORDERED, ADJUDGED and DECREED that the United States of America have judgment against H. S. Milam for the overpayment to him, as shown in paragraph 13, in the amount of \$2,841.00.

To satisfy such judgment the said defendant shall pay the sum of \$2,841.00, to the Clerk of this Court, and the Clerk shall disburse said sum to the Treasurer of the United States of America.

15.

It Is Further ORDERED, ADJUDGED and DECREED that the Plaintiff, United States of America, shall pay into the Registry of this Court the deposit deficiency for the lessor (royalty) interest herein, in the sum of \$107.00, plus interest thereon, computed at the rate of 6% per annum from April 26, 1971, to the date of deposit of such sum, and such sum shall be credited to the subject civil action.

16.

It Is Further ORDERED that when the deficiency deposit required by paragraph 15 has been made, the Clerk of this Court then shall disburse from the deposit for the subject tract the balance due to each owner of the lessor interest, together with each such owner's proportionate share of the accrued interest, according to each owner's fractional interest in subject property as shown above in paragraph 13.

/s/ Allen E. Barrow

UNITED STATES DISTRICT JUDGE

APPROVED:

/s/ Hubert A. Marlow

HUBERT A. MARLOW
Assistant United States Attorney

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

United States of America,)	
Plaintiff,)	
VS.	)	CIVIL ACTION NO. 71-C-149
50.00 Acres of Land, More or	)	Tract No. 1923M
Less, Situate in Nowata County,)	
State of Oklahoma, and Glenn)	
H. Chappell, et al., and)	
Unknown Owners,)	
Defendants.)	
United States of America,)	
Plaintiff,)	
vs.	)	CIVIL ACTION NO. 71-C-150
20.00 Acres of Land, More or	)	Tract No. 1927M
Less, Situate in Nowata County,)	
State of Oklahoma, and W. E.)	
Ross, et al., and Unknown)	
Owners,)	
Defendants.)	

FILED

JUN 19 1973

Jack C. Silver, Clerk
U. S. DISTRICT COURT

J U D G M E N T

1.

NOW, on this 19 day of June, 1973, this matter comes on for disposition on application of the Plaintiff, United States of America, for entry of judgment on the Report of Commissioners filed herein on March 16, 1973, and the Court, after having examined the files in this action and being advised by counsel, finds that:

2.

The Court has jurisdiction of the parties and the subject matter of this action.

3.

This judgment applies to the entire estate taken in Tracts Nos. 1923M and 1927M, as such tracts and estate are described in the Complaints filed in the captioned civil actions.

4.

Service of Process has been perfected either personally or by publication notice, as provided by Rule 71A of the Federal

Rules of Civil Procedure, on all parties defendant in these actions who are interested in the subject tracts.

5.

The Acts of Congress set out in paragraph 2 of the Complaints filed herein give the United States of America the right, power and authority to condemn for public use the subject property. Pursuant thereto, on April 26, 1971, the United States of America, filed its Declarations of Taking of a certain estate in such tracts of land, and title to such property should be vested in the United States of America, as of the date of filing such instruments.

6.

Simultaneously with filing of the Declarations of Taking, there was deposited in the Registry of this Court as estimated compensation for the estate taken in the subject tracts, certain sums of money, and part of these deposits has been disbursed, as set out below in paragraph 13.

7.

The Report of Commissioners filed herein on March 16, 1973, hereby is accepted and adopted as findings of fact in regard to the subject tracts, with the exception of the lessor interest in Tract No. 1927M. The amount of just compensation as to the various interests in subject tracts, as fixed by the Commissioners, is set out below in paragraph 13.

8.

The owner of the lessor interest in the estate taken in Tract No. 1927M and the Plaintiff have executed and filed herein a Stipulation As To Just Compensation wherein they have agreed that the sum of \$200.00 is just compensation for such lessor interest, and such Stipulation should be approved.

9.

This judgment will create a deficiency between the total amount deposited as estimated just compensation for the estate taken in subject tracts and the total amount fixed by the Commission and the Court as just compensation, and a sum of money sufficient to cover such deficiency should be deposited by the Government. This deficiency is set out below in paragraph 13.

10.

The defendants named in paragraph 13 as owners of the estate taken in subject tracts are the only defendants asserting any claim to such estate. All other defendants having either disclaimed or defaulted, the named defendants, as of the date of taking, were the owners of the estate condemned herein and, as such, are entitled to receive the just compensation awarded by this judgment.

11.

It Is, Therefore, ORDERED, ADJUDGED and DECREED that the United States of America has the right, power, and authority to condemn for public use the subject tracts, as they are described in the Complaints filed herein, and such property, to the extent of the estate described in such Complaints, is condemned, and title to such estate is vested in the United States of America, as of April 26, 1971, and all defendants herein and all other persons are forever barred from asserting any claim to such estate.

12.

It Is Further ORDERED, ADJUDGED and DECREED that on the date of taking, the owners of the estate taken in the subject tracts were the defendants whose names appear below in paragraph 13 and the interest owned by each is as therein shown. The right to receive the just compensation awarded by this judgment is vested in the parties so named in paragraph 13.

13.

It Is Further ORDERED, ADJUDGED and DECREED that the Stipulation As To Just Compensation described above in paragraph 8 is approved, and the Report of Commissioners filed herein on March 16, 1973, hereby is confirmed, and the sum thereby fixed is adopted as the award of just compensation for the estate taken in subject tracts, and said award is allocated among the various interests, as shown by the following schedule:

TRACTS NOS. 1923M and 1927M

PART I. WORKING INTEREST in both tracts (1923M and 1927M) combined:

A. 15/16 of the total working interest in Tract No. 1923M and All of the working interest in Tract No. 1927M.

Owners:

Phillips Investment Corporation and
P.I. C. Managment Co., Inc.

Award of just compensation
pursuant to Commissioners'
Report -----

\$26,500.00 \$26,500.00

Deposited as estimated compensation

Tract 1923M --- \$13,337.81
Tract 1927M --- 812.00

Total ----- \$14,149.81

Disbursed to owners ----- \$14,149.81

Balance due to owners ----- \$12,350.19

Deposit deficiency ----- \$12,350.19

B. 1/16 of the total working interest in Tract No. 1923M only.

Owners:

Eva Payne Glass
Julian W. Glass and
Ernest Frances Bradfield

Award of just compensation
pursuant to Commissioners'
Report -----

\$1,770.00 \$1,770.00

Deposited as estimated
compensation -----

889.19

Disbursed to owners ----- None

Balance due to owners ----- \$1,770.00
plus
interest

Deposit deficiency ----- \$ 880.81

PART II. ALL interests other than the working interest
in both tracts.

A. LESSOR (mineral) interest in Tract No. 1923M
only (C.A. 71-C-149).

Owners:

Glenn H. Chappell ----- 2/9
Erva Beryl Howerton, }
Irene Howerton Porter, and } ----- 7/9
Paula Dean Smalley }

Award of just compensation
pursuant to Commissioners'

Report ----- \$10,500.00 \$10,500.00

Deposited as estimated
compensation ----- 5,453.00

Disbursed to owners ----- None

Balance due to owners ----- \$10,500.00
plus
interest

Deposit deficiency ----- \$ 5,047.00

B. LESSOR (mineral) interest in Tract No. 1927M
only (C.A. 71-C-150).

Owner: Fredrick A. Chworowsky, Administrator
with Will Annexed, of the Estate of
W. E. Ross, deceased.

Award of just compensation
pursuant to Stipulation ---- \$200.00 \$200.00

Deposited as estimated
compensation ----- \$200.00

Disbursed to owner ----- \$200.00

Balance due to owner ----- None

C. OVERRIDING ROYALTY interest in Tract No. 1927M
(C. A. 71-C-150).

Owners:

Beulah B. McSpadden ----- 1/8
(successor in interest of
T. R. McSpadden, deceased)
Julian W. Glass, Jr. ----- 7/8

Award of just compensation pursuant to Commissioners' Report -----	\$176.00	\$176.00
Deposited as estimated compensation -----	None	
Disbursed to owners -----		None
		\$176.00 plus interest
Deposit deficiency -----	\$176.00	

14.

It Is Further ORDERED, ADJUDGED and DECREED that the United States of America shall pay into the Registry of this Court for the benefit of the owners the sum of the deposit deficiencies shown in paragraph 13 above, in the total amount of \$18,454.00, together with interest thereon computed at the rate of 6% per annum from April 26, 1971, to the date of such payment.

For accounting purposes, the Clerk of this Court shall credit this payment to the deposit for the two subject cases as follows:

To the deposit for C. A. 71-C-149 ----- \$18,278.00,
plus all accrued interest on this sum;

To the deposit for C. A. 71-C-150 ----- \$176.00,
plus all accrued interest on this sum.

15.

It Is Further ORDERED, ADJUDGED and DECREED that when the deficiency deposit ordered by paragraph 13 above has been accomplished, the Clerk of this Court then shall disburse all of the sum on deposit in Civil Actions Nos. 71-C-149 and 71-C-150 to the owner of the subject property, paying each owner his proportionate share of the awards and the accrued interest according to the property interest owned by each, as shown above in paragraph 13.

/s/ Allen E. Barrow

UNITED STATES DISTRICT JUDGE

APPROVED:

/s/ Hubert A. Marlow

HUBERT A. MARLOW
Assistant United States Attorney

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

BLACKSTOCK JOYCE POLLARD
& McINERNEY,

Plaintiff,

-vs-

HARVEY A. HELLER, JR.,
EARL E. McDONALD d/b/a
McDONALD DRAFTING SERVICE
and DISTRICT DIRECTOR,
INTERNAL REVENUE SERVICE,

Defendants.

Case No. 73-0176

FILED
JUN 13 1973

Jack C. Silver, Clerk
U. S. DISTRICT COURT

O R D E R

The Defendant, District Director, Internal Revenue Service, in the above case has filed a Motion To Dismiss. The Motion is supported by a brief. The Plaintiff has responded in opposition to the Motion.

Upon consideration of the Motion, the Court finds that the same must be granted as this Court lacks jurisdiction of the action brought by the Plaintiff.

This is an interpleader action. Plaintiff is a citizen of Oklahoma. The Defendant Heller is an Oklahoma citizen. Defendant McDonald d/b/a is an Oklahoma citizen. The District Director, Internal Revenue Service is not a citizen for the purpose of federal diversity jurisdiction. Superior Beverage Company v. State of Ohio, 324 F. Supp. 564 (N.D.

Ohio 1971); United States v. Dry Dock Sav. Inst., 149 F.2d 917 (Second Cir. 1945). As a statutory interpleader action, 28 U.S.C.A. §1335, the jurisdictional requirement is lacking that there be two or more adverse claimants of diverse citizenship as the Defendants Heller and McDonald d/b/a are both Oklahoma citizens and the District Director, Internal Revenue Service is not a citizen for this purpose. The jurisdictional amount required by this statute is present.

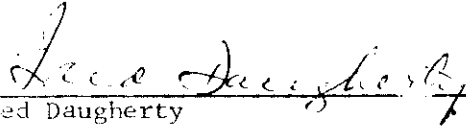
As a non-statutory interpleader action under Rule 22, Federal Rules of Civil Procedure, the jurisdictional requirements are the same as in an ordinary civil action. Wright, Law Of Federal Courts, 2nd Ed. pp. 322, 324. There is no diversity of citizenship between the Plaintiff an Oklahoma citizen and the Defendants Heller and McDonald d/b/a, also Oklahoma citizens. Moreover, the jurisdictional amount is not involved as only the sum of \$8,111.45 is mentioned in the Complaint and deposited in the Registry of the Court.

It may be that the Federal Government has waived sovereign immunity in a properly brought action by reason of 28 U.S.C. §2410(a)(5). But it is primary that the interpleader action must be jurisdictionally sound in the first instance.

For the foregoing reasons the Court must grant the Motion To Dismiss now under consideration. Plaintiff's action is

therefore dismissed without prejudice. The Clerk is directed to return to Plaintiff upon request all funds deposited to the Registry of the Court in connection with this case.

It is so ordered this 18 day of June, 1973.


Fred Daugherty
United States District Judge

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

WILLIAM GRAYSON FISCHER,)
)
 Petitioner,)
)
 vs.)
)
 PARK J. ANDERSON, Warden,)
 Oklahoma State Penitentiary,)
 and PEOPLE OF THE STATE OF)
 OKLAHOMA, ET AL,)
)
 Respondents.)

72-C-370 ✓

FILED

JUN 18 1973 ✓

Jack C. Silver, Clerk
U. S. DISTRICT COURT

ORDER

THE COURT, having examined the files and records of this proceeding together with the Second Report of the United States Magistrate concerning the same and being fully advised in the premises, FINDS:

1. That the detention and arrest of the petitioner did not constitute a violation of the petitioner's constitutional rights under the Fourth Amendment. That such detention and arrest meets the tests of Terry vs. State of Ohio, 392 U.S. 1 (1967).

2. Petitioner's allegation concerning the alleged illegal search of an automobile does not present any federal constitutional question that would justify the granting of relief prayed for. The record clearly states that the vehicle subject to search was the property of a third person and petitioner had no proprietary interest in same.

3. Petitioner's allegation of denial of evidentiary hearing is refuted by the transcript of testimony submitted by respondent. This record shows that an evidentiary hearing was held by the Judge of the District Court of Tulsa County, Oklahoma.

4. Petitioner's allegation that he did not have effective assistance of counsel at time of trial is not substantiated by the

record and is without merit. Ellis vs. State of Oklahoma, et al., 430 F.2d 1352 (1970).

5. Petitioner's allegation of violation of constitutional rights resulting from the introduction of fingerprints used for the purpose of establishing identity is without merit. Schmerber vs. California, 384 U.S. 757.

6. Petitioner's allegation of improper introduction of former convictions and double jeopardy is without merit. The allegation of jeopardy is one for trial and appeal and is not properly reviewable by habeas corpus. Lotz vs. Sachs, 292 F.2d 657 (6th Cir. 1961).

7. The record discloses that petitioner's appearance in court room dressed in "jail garb" is without merit. The petitioner's appearance was not during session of the court and if error was committed, it was harmless beyond a reasonable doubt. Harrington vs. California, 395 U. S. 250, 89 S. Ct. 1726, 23 L. Ed.2d 284.

IT IS, THEREFORE, ORDERED:

1. The Petition for Writ of Habeas Corpus is denied and the case is dismissed.

2. That a copy of this Order be mailed by the Clerk of this Court to the petitioner together with a copy of the Second Report of the United States Magistrate.

3. That the Clerk of this Court furnish to the respondent a copy of this Order together with a copy of the Second Report of the United States Magistrate, by mailing the same to the Attorney General of the State of Oklahoma, State Capitol Building, Oklahoma City, Oklahoma.

Dated this 18th day of June, 1973.


CHIEF JUDGE, UNITED STATES DISTRICT
COURT FOR THE NORTHERN DISTRICT OF
OKLAHOMA

United States District CourtFOR THE
NORTHERN DISTRICT OF OKLAHOMA

Edgar G. Atkins

CIVIL ACTION FILE NO. 72-C-135

vs.

Rose Marie Williams

JUDGMENT

This action came on for trial before the Court and a jury, Honorable Allen E. Barrow
, United States District Judge, presiding, and the issues having been duly tried and
the jury having duly rendered its verdict, finding that neither party recover from the
other.

~~It is Ordered and Adjudged~~

IT IS ADJUDGED that the plaintiff takes nothing, that the defendant
take nothing and that the action is dismissed on its merits.

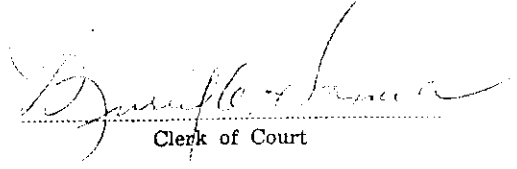
FILED

JUN 15 1973

Jack C. Silver, Clerk
U. S. DISTRICT COURT

Dated at Tulsa, Oklahoma
of June , 19 73.

, this 15th day


Clerk of Court

IN THE DISTRICT COURT OF THE DISTRICT OF OKLAHOMA
FOR THE NINTH JUDICIAL DISTRICT OF OKLAHOMA

CLEM McSPADDEN, JAMES R. JONES, and
others, in behalf of themselves and
other persons similarly situated,
Plaintiffs,
vs.
HOWARD H. TALLAWAY, SECRETARY OF THE
ARMY, LT. GEN. F. J. CLARKE, CHIEF
OF ENGINEERS, and COL. JOHN G.
DRISKILL, TULSA DISTRICT ENGINEER,
U.S. ARMY CORPS OF ENGINEERS,
Defendants.

FILED

JUN 14 1973

Jack C. Silver, Clerk
U. S. DISTRICT COURT

Civil No. 7-11-111

FILED AND
REFERRED

JUN 14 1973

AT M.
Jack C. Silver
Clerk, U. S. District Court

FINDINGS OF FACT, CONCLUSIONS OF LAW
AND JUDGMENT

This litigation came on for hearing on the Motion for Preliminary Injunction and Hearing on the merits on the 4th day of June, 1973. The Court heard testimony, examined exhibits and heard oral argument. By agreement of counsel, subject to the objection of the attorney for Defendants to testimony previously adduced at the Hearing on Temporary Restraining Order, held on the 26th day of May, 1973, the parties agreed to incorporate the previous testimony of the witnesses and Plaintiff, CLEM McSPADDEN and JAMES R. JONES, in the Hearing previously before the Court. At the conclusion of all the evidence, testimony and argument, the Court extended the Temporary Restraining Order for an additional ten (10) days and took the matter of the Preliminary Injunction and Hearing on the Motion for Judgment.

The Court will now render its Findings of Fact and Conclusions of Law.

STATEMENT OF THE CASE

The instant litigation was commenced by the Plaintiffs to challenge by a declaratory judgment action, a program designated "1973 Recreation User Fees, Tulsa District, U.S. Army Corps of Engineers", scheduled to commence on May 25, 1973, at 154 camp areas and 19 day-use areas located at 27 lakes and navigation projects within the jurisdiction of the Tulsa District, U. S. Army Corps of Engineers.

The plans for said collection were established in order to comply with Public Law 92-483, 82 Stat. 739, enacted August 12, 1968, and Public Law 92-347, 86 Stat. 459, enacted July 11, 1972, which required that user fees be charged.

Plaintiffs seek to maintain this litigation as a class action.

IDENTITY OF PARTIES

Plaintiffs, James R. Jones, Clem McSpadden and Tom Steed, are citizens and taxpayers of the State of Oklahoma, residing within the area under the jurisdiction of the District Engineer of the United States Army Corps of Engineers for the Tulsa District, at Chelsea, Tulsa and Shawnee, respectively. Each of them is also a United States Representative for the State of Oklahoma in Congress, duly elected from the First, Second and Fourth Congressional Districts of Oklahoma in November, 1972, and sworn as such officers in January, 1973.

ALLEGES OF FACT

The Court has considered all of the contentions of the

to collect both admission and user fees pursuant to guidelines promulgated by the President. These guidelines appear in Executive Order 11200, 30 Fed. Reg. 2645, February 26, 1965. Said Executive Order is denominated "Providing for Establishing User Fees Pursuant to the Land and Water Conservation Fund Act of 1965."

4. The 1965 Act recognized that a growing population has an increased need for more improved recreation facilities. (S.Rpt. 1364). The legislation provided for the expansion of national outdoor recreational programs and permitted Federal agencies to acquire lands needed to satisfy national conservation goals. The 1965 Act also recognized that such a program would require a substantial financial commitment, and created a special fund which drew revenue from several sources, including the fees to be collected from recreational areas.

5. Public Law 90-401, 82 Stat. 354, approved July 15, 1968, appears to have withdrawn authority from the Corps of Engineers to charge and/or collect admission or user fees. This Act also appears to have voided Executive Order 11200.

Section 210 of the Rivers and Harbors Act, P. L. 90-483, 82 Stat. 731, approved August 13, 1968, provides:

"8.10. No entrance or admission fees shall be collected after March 31, 1970, by an officer or employee of the United States at public recreation areas located at lakes and reservoirs under the jurisdiction of the Corps of Engineers, United States Army. User fees at these lakes shall be collected by officers and employees of the United States only from users of highly developed facilities requiring continuous presence of personnel for maintenance and supervision of the facilities, and shall not be collected for access to or use of water areas, undeveloped or lightly developed shoreland, picnic grounds, overlook sites, scenic drives, or boat launching ramps where no mechanical or hydraulic equipment is provided."

6. Pursuant to Public Law 90-483, the Corps of Engineers established user fees for highly developed facilities and special services at projects under the authority of the Corps. (Engineer Circulars 1130-2-67, December 30, 1969, and 1130-2-73, April 8, 1970.

7. The Land and Water Conservation Fund Act of 1965 was amended in 1972 by Public Law 92-347, 86 Stat. 459 entitled Golden Eagle Passport Program. This new Congressional enactment supplemented the provisions of Section 210 of the 1968 Flood Control Act. Public Law 92-347 provided that the following user fees would be authorized:

"Sec. 4(b) Special Recreation Use Fees. - - Each Federal agency developing, administering, or providing specialized sites, facilities, equipment, or services related to outdoor recreation shall provide for the collection of special recreation use fees for the use of sites, facilities, equipment, or services furnished at Federal expense.

"(1) Daily use fees for overnight occupancy within areas specially developed for such use shall be determined on the basis of the value of the capital improvements offered, the cost of the services furnished, and other pertinent factors . . .

"(2) Special recreation permits for uses such as group activities, recreation events,

motorized recreation vehicles, and other specified recreation uses may be issued in accordance with procedures and at fees established by the agency involved."

Additionally, Public Law 92-347 established the criteria for amounts of user fees, as follows:

"(c) All fees established pursuant to this section shall be fair and equitable, taking into consideration the direct and indirect cost to the Government, the benefits to the recipient, the public policy or interest served, the comparable recreation fees charged by non-Federal public agencies, the economic and administrative feasibility of fee collection and other pertinent factors. Clear notice that an admission fee or special recreation use fee has been established shall be prominently posted at each area and at appropriate locations therein and shall be included in publications distributed at such areas. It is the intent of this Act that comparable fees should be charged by the several Federal agencies for comparable services and facilities. (Emphasis supplied)

8. The Bureau of Outdoor Recreation in the Department of the Interior chaired an interagency committee which developed general criteria to implement Public Law 92-347, 38 Fed. Reg. 3385.

9. The Corps of Engineers on February 1, 1973, proposed user fee regulations for public comment. The final regulations were published on March 26, 1973. (Engineer Regulation 1130-2-404)

10. House Report No. 92-742, states in part:

"Most Members of the Committee believe that those people who are fortunate enough to be able to take the time to use and enjoy these areas ought to be willing to help, to some reasonable degree, to defray the cost of providing them with these opportunities. No one wants to price anyone out of these outdoor areas, but neither do they want to unduly burden those who never visit such areas --either for economic or other reasons--with all of the costs of making these areas and their related facilities available.

"It seems so abundantly clear as to be almost axiomatic:

"That the users of Federal recreation areas should contribute more to Federal recreation programs than non-users;

"That frequent users should contribute more than occasional users;

"That users of modest facilities should pay more than non-users of any special facilities."

The report goes on to say:

"Admission Versus User Fee Distinction Discussed.-- As recommended by the Committee, H.R. 6730 seeks to establish a reasonable program which will encourage public use of our outdoor areas without unjustly subsidizing those who take advantage of the opportunities made available to them.

"It recognizes that the distinction between admission fees and user fees has, for the most part, been arbitrary and confusing. As the Secretary's fee study points out on page 41:

"'In most cases in areas other than National Park System areas, fees have been administratively defined as entrance fees so that the Golden Eagle Passport could apply. However, such fees actually have been for use of the facilities and services available within a developed recreation site. Whether the fee was for entrance to the developed site or for use of the facilities therein would have been quite imperceptible to the visitor since use privileges after paying the fee have been identical.'

"Rather than retaining this illusory distinction, the Committee recommends that it be discarded and that admission charges be limited exclusively to designated areas of the national park system. At the same time, the Committee recommends the retention of the concept of the Golden Eagle Passport as an annual permit to be used exclusively for admission to national parks, monuments, historic sites and battlefields. Unlike other areas, these units of the park system have well defined boundaries and admission is controlled at entrance gates. But even at these areas, if admission fees are to be charged, they should be applicable to all visitors at least throughout the heavy use season. Equal treatment is essential to an effective program. As David Thomson, speaking for the National Campers and Hikers Association, pointed out: 'It is discouraging to those who have bought the passport to see someone getting a free ride.'

"At all Federally operated outdoor areas (including designated admission areas), where a substantial investment has been made in special facilities for the exclusive use of an individual or group or where special services are provided at public expense, a special recreation user charge should be imposed. In most cases, these charges would reflect the direct and indirect costs to the Government, the public policy served, the cost of comparable public facilities, and other pertinent factors. They should be reasonable but they should also be realistic in terms of the benefits received.

"During both the Subcommittee and Full Committee deliberations, it was emphasized that specialized facilities do not include basic recreation facilities which are commonly associated with, or incidental to, day use of an outdoor area. No special charge is intended to be imposed, under this provision of the bill, for the use of roads, trails, overlooks, visitor centers, wayside exhibits, lightly developed or back country campgrounds, or for picnic areas. Practically all visitors can be expected to use all or most of the facilities on a given visit. Admission--particularly free admission--would be meaningless, if a charge is to be imposed for the use of these relatively modest facilities.

"At some outdoor areas, however, there are well-developed campgrounds and other sophisticated facilities. Each agency should develop charges for these areas and facilities based on what they offer to the visitor, because they generate operating expenses or an investment of funds that would not be required to satisfy the needs of the average visitor. If, for example, an agency administers a campground and provides modern sanitary facilities, showers, electrical hookups and other conveniences for the comfort of the visitor, then a higher rate would be justified. But if the campground is relatively rustic and offers fewer comforts and conveniences, then it should be classified at a lower rate. Where practically no services are provided and the campground is primitive, there should be no charge at all."

11. The Legislative History on Public Law 92-347 reflects the following comments:

"The rationale for the recommendation is explained by the language of the Commission.

"Public lands, which are administered and maintained at Federal expense, should be available for outdoor

recreation use only if those using them pay for the privilege of doing so. Although the public, at one time, expected free access to the public lands for recreation use, the attitude has been changing, and we believe that participation in outdoor recreation of any kind should no longer be considered a free use of public land.

"Even in areas where no intensive development has taken place by the installation of recreation facilities, such as tent and trailer camp sites, boat launch ramps with mechanical or hydraulic equipment or for swimming and similar activities, there are substantial Federal investments in multipurpose roads, hiking-trail systems, and sanitation systems. In addition to the capital investments, there are increasingly large annual costs for maintenance - of both physical improvement and of the environment - and for litter collection and trash removal.

"A general use fee would help defray these costs and simultaneously assure equitable treatment among all those having access to public lands. Further, we submit that those who pay to enter or use recreation facilities will recognize the stake they have in the protection of the areas and make greater efforts, not only to take better care themselves, but also to make certain that others are more careful in their visits to the areas and their use of facilities. In addition, a general use fee would also assure equity to the operators of any competing private outdoor recreation area."

12. The Joint Statement of the Committee of Conference on H. Rpt. 92-1164 makes the following specific reference to special recreational use fees:

"It is the intent of the conferees that special recreation use fees shall be limited to those facilities which require a substantial investment and regular maintenance and which are utilized for the personal benefit of the user for a fixed period of time. No special recreation use fee should be collected for use of facilities which virtually all visitors might reasonably expect to utilize, such as roads, trails, overlooks, visitor centers, way-side exhibits, or picnic areas."

13. The bill passed by the Senate of the United States on March 27, 1973, S. 1381, seeks to amend the Land and Conservation Fund Act of 1965, to read:

"(b) SPECIAL RECREATION USE FEES.--Each Federal agency developing, administering, or providing specialized sites, facilities, equipment, or services related to outdoor recreation shall provide for the collection of special recreation use fees for the use of sites, facilities, equipment, or services furnished at Federal expense: Provided, that in no event shall there be a charge for the day use or recreational use of those facilities or combination of those facilities or areas which virtually all visitors might reasonably be expected to utilize, such as, but not limited to, lightly developed or back-country campgrounds, picnic areas, boat ramps where no mechanical or hydraulic equipment is provided, drinking water, wayside exhibits, roads, trails, overlook sites, visitors' centers, scenic drives, and toilet facilities."

14. The bill passed by the House of Representatives on May 16, 1973, H.R. 6717, seeks to amend Sec. 210 of the Flood Control Act of 1968, to read:

"Sec. 210(a). No entrance or admission fees shall be collected after March 31, 1970, by any officer or employee of the United States at public recreation areas located at lakes and reservoirs under the jurisdiction of the Corps of Engineers, United States Army. User fees at these lakes and reservoirs shall be collected by officers and employees of the United States only from users of highly developed facilities requiring continuous presence of personnel for maintenance and supervision of the facilities, and shall not be collected for day use or for access to or use of water areas, undeveloped or lightly developed shoreland, boat launching ramps where no mechanical or hydraulic equipment is provided, roads, or visitor centers, or for access to or use of moderately developed facilities such as, but not limited to picnic sites, playgrounds, drinking water, wayside exhibits, trails, overlook sites, scenic drives, toilet facilities, automobile parking areas, or for access to or use of areas containing one or more of such facilities. No fee may be charged for access to or use of any campground not having all the following: flush restrooms, showers, dustproofed or paved access and circulatory roads, sanitary disposal stations, visitor protection control, designated tent or trailer spaces, fireplaces, picnic tables, refuse containers, and potable water.

15. Evidence adduced at the two hearings entertained by this Court reflects that for the three years the Corps of Engineers collected fees from limited areas (i.e. mainly camping), the Corps of Engineers operated at a loss each year.

16. The Corps' plans refer to gates at recreation areas where user fees are contemplated. Were the gates for the purpose of refusing admission except upon payment of a fee, this would be in violation of the present law prohibiting charges for admissions. The Government, through their witness, Lt. Col. Morris, stated that the gates were not gates "as such", and in no instance would an admission fee be charged 'merely for admission', but a charge would be made only if the visitor used the facilities in the "user fee area" as a user fee charge only.

17. The Plaintiffs have moved for a class action determination.

18. The Court notes that on June 11, 1973, Defendant filed a Motion to Supplement Record wherein it appears that the Corps has lowered the fees to be charged.

CONCLUSIONS OF LAW

Based on the Findings of Fact herein enumerated, the Court makes the following Conclusions of Law.

1. This Court has jurisdiction of the parties and the subject matter of this litigation pursuant to Title 5 U.S.C. Sec. 701-706.

2. The complex and numerous legislative activities in the field by the Congress now encompassed by the present litigation, and the legislation enacted, reveal that the Congress of the United States has been fully aware of the problems facing the nation in this area. A thorough review of the various acts and

the legislative history accompanying such enactments reveals to one and all the strong and imperative feelings of the elected officials, not only to protect the citizens, but also to aid ecology and benefit the nation.

3. The Court is sympathetic to the position of the Plaintiffs and has carefully considered their evidence and the testimony revealed at the trial. The Court finds, with regard to the laws involved, that such laws must be strictly construed. Based on an examination of the present state of the laws and those concepts and arguments advanced by the Plaintiffs (although the effect on some of the citizens of the State of Oklahoma may in some instances create a seemingly inequity), this Court is compelled by the principles of statutory construction to find, as a matter of law, that the claims advanced by the Plaintiffs lack the necessary merit to justify the relief they seek from this Court.

4. The Court finds that the Congress enacted the present laws, and that the executive branch approved by signing such into law. The Court concludes that if Congress was in error, or if the laws are ambiguous, or if Congressional intent has been thwarted, then it is the responsibility of Congress to remedy the situation. As revealed in the evidence, both the Senate and the House have passed proposed bills to remedy the present dilemma. In the orderly system of "checks and balances", the legislation ultimately adopted by the Congress will then be presented to the executive department for approval. By virtue of the Constitution, this is the proper course to be followed. It is not for the Federal Courts to legislate -- it is for the Congress to legislate. There has been insufficient evidence to conclude that the acts complained of are illegal. The

main flaw has been that the Corps of Engineers' present plan to implement is probably not the result anticipated by the Congress.

5. The Court acknowledges the merit of the arguments propounded and urged by the plaintiffs. But Congress proposed and adopted the present acts resulting in the law that governs the Corps of Engineers, and other Federal agencies, with reference to "user fees".

At the inception of some of the laws in question, the primary and motivating purpose was for flood control, navigation and the generation of hydro-electric power. Ancillary to those purposes was the installation and maintenance of recreational facilities for the benefit of the public as a whole. But such benefit is secondary to the ultimate and primary purpose of the legislation.

Plaintiffs argue that with the charging of user fees, the legal concept of proprietary or vested interests of the user evolves. They argue that such interest would have a marked effect on whether the water level in reservoirs and lakes would have to be maintained at a stable level to accomplish the purposes of recreation but there can be no argument but that the taxes of all the citizens, pay for the projects here in question, and their interest and right, not to have their homes and property inundated, must be as great or greater than the right of a user-fee citizen, not to have the recreation area flooded, or to have the level of the water not dropped because of need for hydro-electricity. The Court recognizes the possible arguments and contentions arising from this proprietary interest theory, but to adopt such position of the plaintiffs so as to cause the granting of plaintiffs' requested

relief would open "Pandora's Box", and the confusion resulting therefrom would wend this society down a twisted, rutted and never-ending road of litigation and ambiguity.

6. The Court feels that it can come to no other determination and judgment, (even though Plaintiffs might have a completely satisfactory moral argument) than to deny the preliminary injunction and to grant the defendants' Motion to Dismiss, not on the grounds of lack of jurisdiction, but on the grounds that Plaintiffs have failed to allege and prove a cause of action on which relief by this Court can be granted.

7. The Court finds that since this cause of action must be dismissed for failure to state a claim upon which relief can be granted, it is unnecessary to consider the Plaintiffs' motion for a class action determination.

ENTERED this 14 day of June, 1973.



CHIEF UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILE

JUN 1973

Jack C. Orr
U. S. DISTRICT

UNITED STATES OF AMERICA,)
)
Plaintiff,)
vs.) Civil Action No. 73-C-31
)
)
CARL E. CLARK, et al.,)
)
Defendants.)

JUDGMENT OF FORECLOSURE

THIS MATTER COMES on for consideration this 13¹² day
of June, 1973, the plaintiff appearing by Robert P. Santee, Assistant
United States Attorney, and the defendants, Carl E. Clark, Catherine
M. Clark a/k/a Cathey Clark, Karen Clark, Dr. Herbert R. Orr d/b/a
The Family Clinic, appearing not, and Joe L. Barthell, appearing
by his attorney, Larry Harral.

The Court being fully advised and having examined
the file herein finds that after diligent effort the whereabouts
and residence of defendant, Karen Clark, cannot be ascertained;
that Karen Clark was served by publication, as appears from the
Proof of Publication filed herein on May 23, 1973; that personal
service was made on defendants, Carl E. Clark, Catherine M. Clark
a/k/a Cathey Clark on February 20, 1973, Dr. Herbert R. Orr d/b/a
The Family Clinic on February 9, 1973, and Joe L. Barthell on
February 2, 1973, all as appears from the Marshal's Returns of
Service herein, and

It appearing that Joe L. Barthell filed his answer
herein on February 15, 1973, and that the other defendants have
failed to answer herein and their default has been entered by the
Clerk of this Court.

The Court further finds that this is a suit based upon
a mortgage note and foreclosure on a real property mortgage
securing said mortgage note and that the following described real
property is located in Tulsa County, Oklahoma, within the Northern
Judicial District of Oklahoma:

Lot One (1), Block Five (5) of Blocks Five (5) through Nine (9), OAK RIDGE ADDITION to the City of Tulsa, Tulsa County, Oklahoma, according to the recorded plat thereof.

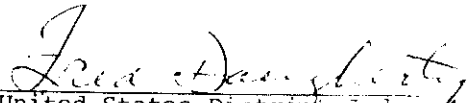
THAT the defendants, Carl E. Clark and Catherine M. Clark, did, on 12th day of November, 1969, execute and deliver to the Administrator of Veterans Affairs, their mortgage and mortgage note in the sum of \$13,900.00 with 8 per cent interest per annum, and further providing for the payment of monthly installments of principal and interest; and

The Court further finds that the defendants, Carl E. Clark and Catherine M. Clark, made default under the terms of the aforesaid mortgage note by reason of their failure to make monthly installments due thereon for more than 12 months last past, which default has continued and that by reason thereof the above-named defendants are now indebted to the plaintiff in the sum of \$13,428.65 as unpaid principal, with interest thereon at the rate of 8 per cent interest per annum from July 12, 1972, until paid, plus the cost of this action accrued and accruing.

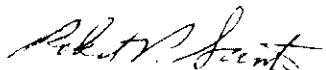
IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the plaintiff have and recover judgment against defendants, Carl E. Clark and Catherine M. Clark, for the sum of \$13,428.65 with interest thereon at the rate of 8 per cent per annum from July 12, 1972, plus the cost of this action accrued and accruing, plus any additional sums advanced or to be advanced or expended during this foreclosure action by plaintiff for taxes, insurance, abstracting, or sums for the preservation of the subject property.


IT IS FURTHER ORDERED, ADJUDGED AND DECREED that upon the failure of said defendants to satisfy plaintiff's money judgment herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell, with appraisement the real property and apply the proceeds thereof in satisfaction of plaintiff's judgment. The residue, if any, to be deposited with the Clerk of the Court to await further order of the Court.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that from and after the sale of said property, under and by virtue of this judgment and decree, all of the defendants and each of them and all persons claiming under them since the filing of the complaint herein be and they are forever barred and foreclosed of any right, title, interest or claim in or to the real property or any part thereof.


United States District Judge

APPROVED.


ROBERT P. SANTEE
Assistant United States Attorney


LARRY HARRAL
Attorney for Joe L. Barthell

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.)
)
JESSE R. SCOTT, et al.,)
)
)
Defendants.)

Civil Action No. 73-C-33 ✓

JUDGMENT OF FORECLOSURE

THIS MATTER COMES on for consideration this _____ day
of _____, 1973, the plaintiff appearing by Robert P. Santos,
Assistant United States Attorney, and the defendants, Jesse R. Scott,
Regina M. Scott, Mrs. Andrew Johnny, and Tulsa Adjustment Bureau,
Inc., appearing not.

The Court being fully advised and having examined the
file herein finds that after diligent effort the whereabouts and
residence of the defendants, Jesse R. Scott and Regina M. Scott, can-
not be ascertained as appears from the Marshal's Returns of Service
herein; that the defendants, Jesse R. Scott and Regina M. Scott,
were served by publication, as appears from the Proof of Publication
filed herein on May 23, 1973; that the defendants, Mrs. Andrew Johnny
and Tulsa Adjustment Bureau, Inc., were personally served with summons
and complaint, as appears from the Marshal's Returns of Service herein,
and

It appearing that the said defendants have failed to
answer herein and that default has been entered by the Clerk of
this Court.

The Court further finds that this is a suit based upon
a mortgage note and foreclosure on a real property mortgage securing
said mortgage note and that the following described real property
is located in Tulsa County, Oklahoma, within the Northern Judicial
District of Oklahoma:

Lot Five (5), Block Four (4), LAKE-VIEW HEIGHTS
AMENDED ADDITION to the City of Tulsa, County
of Tulsa, State of Oklahoma, according to the
recorded plat thereof.

THAT the defendants, Jesse R. Scott and Regina M. Scott, did, on the 19th day of August, 1971, execute and deliver to the Administrator of Veterans Affairs, their mortgage and mortgage note in the sum of \$10,550.00 with 4 1/2 per cent interest per annum, and further providing for the payment of monthly installments of principal and interest; and

The Court further finds that the defendants, Jesse R. Scott and Regina M. Scott, made default under the terms of the aforesaid mortgage note by reason of their failure to make monthly installments due thereon for more than 12 months last past, which default has continued and that by reason thereof the above-named defendants are now indebted to the plaintiff in the sum of \$10,566.09 as unpaid principal, with interest thereon at the rate of 4 1/2 per cent interest per annum from January 19, 1972, until paid, plus the cost of this action accrued and accruing.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the plaintiff have and recover judgment against defendants, Jesse R. Scott and Regina M. Scott, ^{in rem,} ~~for~~ the sum of \$10,566.09 with interest thereon at the rate of 4 1/2 per cent per annum from January 19, 1972, plus the cost of this action accrued and accruing, plus any additional sums advanced or to be advanced or expended during this foreclosure action by plaintiff for taxes, insurance, abstracting, or sums for the preservation of the subject property.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that upon the failure of said defendants to satisfy plaintiff's money judgment herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell, with appraisement the real property and apply the proceeds thereof in satisfaction of plaintiff's judgment. The residue, if any, to be deposited with the Clerk of the Court to await further order of the Court.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that from and after the sale of said property, under and by virtue of this

judgment and decree, all of the defendants and each of them and all persons claiming under them since the filing of the complaint herein be and they are forever barred and foreclosed of any right, title, interest or claim in or to the real property or any part thereof.

Wm. F. Lamm
United States District Judge

APPROVED.

Robert P. Santee
ROBERT P. SANTEE
Assistant United States Attorney

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

JUN 12 1973

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.)
)
DELBERT LEE WILLITS, et al.,)
)
)
Defendants.)

Jack C. Sweeney, Jr.
U. S. DISTRICT COURT

Civil Action No. 73-C-29

JUDGMENT OF FORECLOSURE

THIS MATTER COMES on for consideration this 8 day
of June, 1973, the plaintiff appearing by Robert P. Santee,
Assistant United States Attorney, and the defendants, Delbert Lee
Willits and Peggy Sue Willits, appearing not.

The Court being fully advised and having examined the
file herein finds that the whereabouts and residence of the
defendants, Delbert Lee Willits and Peggy Sue Willits, cannot be
ascertained; that service was made on these defendants by publica-
tion, as appears from the Proof of Publication filed herein on
May 23, 1973; and

It appearing that the said defendants have failed to
answer herein and that default has been entered by the Clerk of
this Court.

The Court further finds that this is a suit based upon
a mortgage note and foreclosure on a real property mortgage securing
said mortgage note and that the following described real property
is located in Tulsa County, Oklahoma, within the Northern Judicial
District of Oklahoma:

Lot Fourteen (14), Block Six (6), NORTHGATE
THIRD ADDITION, to the City of Tulsa, Tulsa
County, Oklahoma, according to the recorded
plat thereof.

THAT the defendants, Delbert Lee Willits and Peggy Sue
Willits, did, on the 13th day of May, 1971, execute and deliver
to Diversified Mortgage and Investment Company in Tulsa, Oklahoma,
their mortgage and mortgage note in the sum of \$14,400.00 with
7 per cent interest per annum, and further providing for the payment
of monthly installments of principal and interest; and

THAT subsequent thereto and on May 19, 1971, Diversified Mortgage and Investment Company assigned, transferred and set over to the Federal National Mortgage Association said real estate mortgage; that on June 23, 1971, Federal National Mortgage Association reassigned said mortgage to Diversified Mortgage and Investment Company;

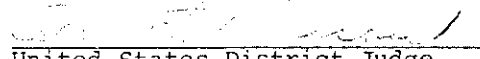
THAT subsequent thereto and on July 2, 1971, Diversified Mortgage and Investment Company assigned said real estate mortgage to Government National Mortgage Association; that on July 19, 1971, Government National Mortgage Association reassigned said mortgage to Diversified Mortgage and Investment Company; that on July 26, 1971, Diversified Mortgage and Investment Company reassigned said Mortgage to Federal National Mortgage Association; and on January 31, 1972, Federal National Mortgage Association assigned, transferred and set over said real restate mortgage to the Secretary of Housing and Urban Development, Washington, D. C., his successors and assigns as such.

The Court further finds that the defendants, Delbert Lee Willits and Peggy Sue Willits, made default under the terms of the aforesaid mortgage note by reason of their failure to make monthly installments due thereon for more than 12 months last past, which default has continued and that by reason thereof the above-named defendants are now indebted to the plaintiff in the sum of \$14,339.79 as unpaid principal, with interest thereon at the rate of 7 per cent interest per annum from November 1, 1971, until paid, plus the cost of this action accrued and accruing.

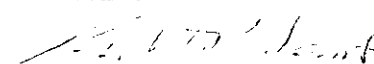
IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the plaintiff have and recover judgment against defendants, Delbert Lee Willits and Peggy Sue Willits, in rem, for the sum of \$14,339.79 with interest thereon at the rate of 7 per cent per annum from November 1, 1971, plus the cost of this action accrued and accruing, plus any additional sums advanced or to be advanced or expended during this foreclosure action by plaintiff for taxes, insurance, abstracting, or sums for the preservation of the subject property.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that upon the failure of said defendants to satisfy plaintiff's money judgment herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell, with appraisement the real property and apply the proceeds thereof in satisfaction of plaintiff's judgment. The residue, if any, to be deposited with the Clerk of the Court to await further order of the Court.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that from and after the sale of said property, under and by virtue of this judgment and decree, all of the defendants and each of them and all persons claiming under them since the filing of the complaint herein be and they are forever barred and foreclosed of any right, title, interest or claim in or to the real property or any part thereof.


United States District Judge

APPROVED.


ROBERT P. SANTEE
Assistant United States Attorney

NORTHERN DISTRICT OF OKLAHOMA

Petitioner,

1) NO. 72-C-418

Respondents.

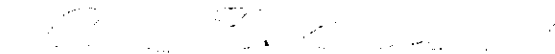
O R D E R

IT IS, THEREFORE, ORDERED:

1. That the Petition for Writ of Habeas Corpus is denied.
2. That a copy of this Order be mailed by the Clerk of this Court, together with a copy of the Second Report of the United States Magistrate to the petitioner.
3. That the Clerk of this Court furnish to the respondent a copy of this Order together with a copy of the Second Report of the United States Magistrate transmitting the same to the Attorney General of the State of Oklahoma, State Capitol Building, Oklahoma City, Oklahoma.

4. That the Clerk of this Court return to the Clerk of the Court of Criminal Appeals of the State of Oklahoma the transcript of testimony submitted for review.

Dated this 17th day of June, 1973, at Tulsa, Oklahoma.



CHIEF JUDGE, UNITED STATES DISTRICT
COURT FOR THE NORTHERN DISTRICT OF
OKLAHOMA

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA, }
 }
 Plaintiff, }
vs. }
 }
ROBERT R. MARTIN, et al., }
 }
 }
 Defendants. }

Civil Action No. 73-C-27

FILED
JUN 14 1973

JUDGMENT OF FORECLOSURE

John C. Slat, Clerk
U. S. DISTRICT COURT

THIS MATTER COMES on for consideration this _____ day
of _____, 1973, the plaintiff appearing by Robert
P. Santee, Assistant United States Attorney, and the defendants,
Robert R. Martin, Shirley S. Martin, Robert E. Martin, Ruby Velma
Martin, Donald L. Roberson, and Lula B. Roberson, appearing not.

The Court being fully advised and having examined the
file herein finds that after diligent effort the whereabouts and
residence of the defendants, Robert E. Martin, Ruby Velma Martin,
Donald L. Roberson, and Lula B. Roberson, cannot be ascertained;
that these defendants were served by publication as appears from the
Proof of Publication filed herein on May 23, 1973; that the summons
and Complaint were personally served upon the defendants, Robert R.
Martin and Shirley S. Martin, as appears from the Marshal's Returns
of Service herein, and

It appearing that the said defendants have failed to
answer herein and that default has been entered by the Clerk
of this Court.

The Court further finds that this is a suit based upon
a mortgage note and foreclosure on a real property mortgage securing
said mortgage note and that the following described real property
is located in Tulsa County, Oklahoma, within the Northern Judicial
District of Oklahoma:

Lot Five (5), Block Sixteen (16), VALLEY VIEW
ACRES ADDITION to the City of Tulsa, Tulsa
County, Oklahoma, according to the recorded
plat thereof.

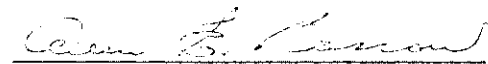
THAT the defendants, Robert R. Martin and Shirley S. Martin, did, on the 22nd day of June 1964, execute and deliver to the Administrator of Veterans Affairs, their mortgage and mortgage note in the sum of \$9,300.00 with 5 1/2 per cent interest per annum, and further providing for the payment of monthly installments of principal and interest; and

The Court further finds that the defendants, Robert R. Martin, Shirley S. Martin, Robert E. Martin, Ruby Velma Martin, Donald L. Roberson, and Lula B. Roberson, made default under the terms of the aforesaid mortgage note by reason of their failure to make monthly installments due thereon for more than 12 months last past, which default has continued and that by reason thereof the above-named defendants are now indebted to the plaintiff in the sum of \$8,255.90 as unpaid principal, with interest thereon at the rate of 5 1/2 per cent interest per annum from January 1, 1972, until paid, plus the cost of this action accrued and accruing.


IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the plaintiff have and recover judgment against defendants, Robert R. Martin and Shirley S. Martin, ^{in personam,} and against Robert E. Martin, Ruby Velma Martin, Donald L. Roberson, and Lula B. Roberson, in rem, for the sum of \$8,255.90 with interest thereon at the rate of 5 1/2 per cent per annum from January 1, 1972, plus the cost of this action accrued and accruing, plus any additional sums advanced or to be advanced or expended during this foreclosure action by plaintiff for taxes, insurance, abstracting, or sums for the preservation of the subject property.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that upon the failure of said defendants to satisfy plaintiff's money judgment herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell, with appraisement the real property and apply the proceeds thereof in satisfaction of plaintiff's judgment. The residue, if any, to be deposited with the Clerk of the Court to await further order of the Court.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that from and after the sale of said property, under and by virtue of this judgment and decree, all of the defendants and each of them and all persons claiming under them since the filing of the complaint herein be and they are forever barred and foreclosed of any right, title, interest or claim in or to the real property or any part thereof.


United States District Judge

APPROVED.


ROBERT P. SANTEE
Assistant United States Attorney

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

HENRY FRANKLIN COX,)
)
Petitioner,)
)
vs.) 73-C-117
)
COURT OF CRIMINAL APPEALS,)
STATE OF OKLAHOMA, ET AL,)
)
Respondents.)

FILED

JUN 11 1973

Jack C. Silver, Clerk
U. S. DISTRICT COURT

ORDER

THE COURT, having examined the files herein and the Initial Report of the United States Magistrate, and being fully advised in the premises, FINDS:

The request for relief in this case is moot by virtue of the fact that the judgment and sentence of the District Court in and for Tulsa County, State of Oklahoma in Case No. CRF-71-2200 was on the 30th day of April, 1973 affirmed by the Court of Criminal Appeals, State of Oklahoma.

IT IS, THEREFORE, ORDERED:

1. That the request for relief is denied and the case is dismissed.

2. That a copy of this Order be mailed to the petitioner together with a copy of the Initial Report of the United States Magistrate.

Dated this 11th day of June, 1973.

Cecilia E. Jackson
CHIEF JUDGE, UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA.

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

HENRY FRANKLIN COX,)
)
 Petitioner,)
)
 vs.)
)
 THE STATE OF OKLAHOMA, ET AL,)
)
 Respondents.)

FILED
73-C-162 JUN 11 1973 ✓
Jack C. Silver, Clerk
U. S. DISTRICT COURT

ORDER

THE COURT, having examined the Petition for Writ of Habeas Corpus filed herein by the Clerk of this Court, together with motion for leave to proceed in forma pauperis and having examined the Initial Report of the United States Magistrate concerning the same and being fully advised in the premises, FINDS:

1. The file reflects that the petitioner has not exhausted the remedies available to him in the courts of the State of Oklahoma, or that there is either an absence of available state corrective process or the existence of circumstances rendering such process ineffective to protect the rights of the petitioner. U.S.C. Title 28, § 2254. The petitioner has chosen to ignore the state post-conviction remedies provided by 22 O.S.A. § 1080 et seq. The institution of a post-conviction action in the sentencing court is a prerequisite to the granting of federal habeas corpus relief. Brown vs. Crouse, 395 F.2d 755 (C.A. 10 1968) and Omo vs. Crouse, 395 F.2d 757 (C.A. 10 1968).

The affidavit of petitioner to proceed in forma pauperis appears to be properly executed.

IT IS, THEREFORE, ORDERED:

1. The petitioner's motion to proceed in forma pauperis is granted.
2. The Petition for Writ of Habeas Corpus is dismissed.
3. A copy of this Order together with the Initial Report of the United States Magistrate be mailed to the petitioner.

Dated this 11th day of June, 1973.

Lee W. ...
CHIEF JUDGE, UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF OKLAHOMA.

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF OKLAHOMA

CARL L. SALSMAN,

Plaintiff,

vs.

HENRY D. WITT
PAULINE WITT

Defendants.

NO. 70-0-354

1973

Jack C. Smith, Clerk
U. S. DISTRICT COURT

J U D G M E N T

This action came on for trial before the Court and a jury, Honorable Allen E. Barrow, Chief Judge, United States District Judge, presiding, and after hearing testimony, the Court directed a verdict for defendants and dismissed the jury.

IT IS ORDERED AND ADJUDGED that judgment be entered in favor of defendants and against plaintiff.

DATED at Tulsa, Oklahoma, this 11th day of June, 1973.

Allen E. Barrow, Chief Judge
United States District Court

No. 73 - C - 18

Q R S L R

On 11/19/1975, this matter coming on before the undersigned Judge upon plaintiffs' Motion for Dismissal, it appeared to the court that the defendant had acquiesced to the dismissal of said motion. WHEREFORE ORIGINALLY ADJUDGED AND DECREED that the same be hereby dismissed at the request of the plaintiffs.

Chas. E. Brown

UNITED STATES DISTRICT
COURT
SOUTHERN DIVISION

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

JUN 8 1973

United States of America,	)	Jack C. Sherr, Clerk
	)	U. S. DISTRICT COURT
Plaintiff,)	
)	
vs.	)	CIVIL ACTION NO. 70-C-176
)	
180.00 Acres of Land, More or	)	Tracts Nos. 819M and
Less, Situate in Nowata County,	)	820M
State of Oklahoma, and Alice)	
Robertson, et al., and Unknown)	
Owners,	)	(Lessor Interest
	)	and Overriding Royalty
Defendants.	)	Interest)

J U D G M E N T

1.

NOW, on this 8 day of June, 1973, this matter comes on for disposition on application of the Plaintiff, United States of America, for entry of judgment fixing just compensation in this matter. After having examined the files in this action and being advised by counsel, the Court finds:

2.

This judgment applies only to the lessor interest and the overriding royalty interest in the estate condemned in Tracts Nos. 819M and 820M, as such estate and tracts are described in the Complaint filed in this action.

3.

The Court has jurisdiction of the parties and the subject matter of this action.

4.

Service of Process has been perfected either personally or by publication notice, as provided by Rule 71A of the Federal Rules of Civil Procedure, on all parties defendant in this cause who are interested in subject property.

5.

The Acts of Congress set out in paragraph 2 of the Complaint filed herein give the United States of America the right, power and authority to condemn for public use the property described above in paragraph 2. Pursuant thereto, on

June 4, 1970, the United States of America filed its Declaration of Taking of such property, and title thereto should be vested in the United States of America, as of the date of filing such instrument.

6.

Simultaneously with filing the Declaration of Taking, there was deposited in the Registry of this Court as estimated compensation for the lessor interest and the overriding royalty interest in the estate taken in the subject tracts a certain sum of money, and part of this deposit has been disbursed, as set out below in paragraph 12.

7.

A pre-trial hearing in this case was set by the Court for March 22, 1973. Due notice of such hearing was given to all of the parties. The Plaintiff, United States of America, appeared at such hearing by Hubert A. Marlow, Assistant United States Attorney for the Northern District of Oklahoma. The owners of the subject property did not appear, nor did any attorney appear for them.

8.

The Court has been advised by counsel for Plaintiff that in the event of a trial, Plaintiff's evidence would show that \$3,358.00 was the value of the lessor interest in the estate taken in this case and that \$2,448.00 was the value of the overriding royalty interest in the estate taken in this case. These sums are based upon an appraisal made by J. M. Wanenmacher; and, no objection having been made by the owners, such sums should be adopted as the awards of just compensation for the subject interests.

9.

The defendants named in paragraph 12 as owners of the lessor interest and the overriding royalty interest in the estate taken in the subject tracts are the only defendants asserting any interest in such property. All other defendants having either disclaimed or defaulted, the named defendants are the owners of such property, as of the date of taking and, as such, are entitled

to receive the just compensation awarded by this Judgment.

10.

It Is, Therefore, ORDERED, ADJUDGED and DECREED that the United States of America has the right, power and authority to condemn for public use the subject tracts, as such tracts are described in the Complaint filed herein, and such property, to the extent of the lessor interest and the overriding royalty interest in the estate described in such Complaint, are condemned, and title thereto is vested in the United States of America, as of June 4, 1970, and all defendants herein and all other persons are forever barred from asserting any claim to such interests.

11.

It Is Further ORDERED, ADJUDGED and DECREED that on the date of taking in this case, the owners of the subject property were the defendants whose names appear in the schedule set forth in paragraph 12 below, and the right to receive the just compensation awarded by this judgment is vested in the parties as therein stated.

12.

It Is Further ORDERED, ADJUDGED and DECREED that the sum of \$3,358.00 hereby is adopted as the award of just compensation for the lessor interest in the estate taken in subject tracts and that the sum of \$2,448.00 hereby is adopted as the award of just compensation for the overriding royalty interest in the estate taken in subject tracts, and such awards are allocated among the various owners as shown by the following schedule:

TRACTS NOS. 819M and 820M

(Lessor Interest and Overriding Royalty Interest)

1. Lessor interest:

Owners of lessor interest:

John L. Robertson, Executor of the estate of Alice Robertson, deceased -----	1/2
Helen Riddle -----	1/2

Award of just compensation for
lessor interest, pursuant
to Court's findings ----- \$3,358.00 \$3,358.00

Deposited as estimated compen-
sation for lessor interest - \$3,358.00

Disbursed to Owners:

To Helen Riddle ----- \$1,679.00

Balance due to John L. Roberston,
Executor ----- \$1,679.00

2. Overriding royalty interest:

Owner of ORRI:

Union Oil Company of California

Award of just compensation for
ORRI pursuant to Court's
findings ----- \$2,448.00 \$2,448.00

Deposited as estimated compen-
sation for ORRI ----- \$2,448.00

Disbursed to owner ----- None

Balance due to owner ----- \$2,448.00

13.

It Is Further ORDERED that the Clerk of this Court now
shall disburse from the deposit for the subject tractscertain
sums as follows:

To John L. Robertson, executor of the estate
of Alice Robertson, deceased ----- \$1,679.00

To Union Oil Company of California ----- \$2,448.00

/s/ Allen E. Barrow

UNITED STATES DISTRICT JUDGE

APPROVED:

/s/ Hubert A. Marlow

HUBERT A. MARLOW
Assistant United States Attorney

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

United States of America,)	
)	
Plaintiff,)	
)	
vs.	)	CIVIL ACTION NO. 70-C-283
)	
50.00 Acres of Land, More or	)	Tract No. 1021M
Less, Situate in Nowata County,)	
State of Oklahoma, and E. C.)	
Welsh, et al., and Unknown)	
Owners,)	
)	
Defendants.)	

FILED

JUN 6 1973

Jack C. Silver, Clerk
U. S. DISTRICT COURT

J U D G M E N T

1.

Now, on this 6 day of June, 1973, this matter comes on for disposition on application of the Plaintiff, United States of America, for entry of judgment fixing just compensation in this matter. After having examined the files in this action and being advised by counsel, the Court finds:

2.

This judgment applies to the entire estate condemned in Tract No. 1021M, as such estate and tract are described in the Complaint filed in this action.

3.

The Court has jurisdiction of the parties and the subject matter of this action.

4.

Service of Process has been perfected either personally or by publication notice, as provided by Rule 71A of the Federal Rules of Civil Procedure, on all parties defendant in this cause who are interested in subject property.

5.

The Acts of Congress set out in paragraph 2 of the Complaint filed herein give the United States of America the right, power and authority to condemn for public use the property described above in paragraph 2. Pursuant thereto, on September 15, 1970, the United States of America filed its Declaration of

Taking of such property, and title thereto should be vested in the United States of America, as of the date of filing such instrument.

6.

Simultaneously with filing the Declaration of Taking, there was deposited in the Registry of this Court as estimated compensation for the estate taken in the subject tract a certain sum of money, and none of this deposit has been disbursed, as set out below in paragraph 12.

7.

A pre-trial hearing in this case was set by the Court for February 5, 1973. Due notice of such hearing was given to all of the parties. The Plaintiff, United States of America, appeared at such hearing by Hubert A. Marlow, Assistant United States Attorney for the Northern District of Oklahoma. Mr. W. E. Maddux, Attorney, appeared for the owners of 1/2 of the estate taken in subject tract. The owner of the other 1/2 interest in the subject property did not appear, nor did any attorney appear for him.

8.

The defendants named in paragraph 12 as owners of the estate taken in the subject tract are the only defendants asserting any interest in such property. All other defendants having either disclaimed or defaulted, the named defendants are the owners of such property, as of the date of taking and, as such, are entitled to receive the just compensation awarded by this judgment.

9.

The owner of the 1/2 interest in the subject property who appeared at the pre-trial, and the United States of America have executed and filed herein, on April 13, 1973, a Stipulation As To Just Compensation wherein they have agreed that the amount of just compensation for such 1/2 interest, is \$250.00, and such stipulation should be approved.

Since the owner of the other 1/2 interest in subject property has taken no position regarding the value of his interest

it appears that the Court should be guided by the aforesaid stipulation and should adopt the sum of \$250.00 as compensation for such other 1/2 interest.

10.

It Is, Therefore, ORDERED, ADJUDGED and DECREED that the United States of America has the right, power and authority to condemn for public use the subject tract, as it is described in the Complaint filed herein, and such property, to the extent of the estate described in such Complaint, is condemned, and title thereto is vested in the United States of America, as of September 15, 1970, and all defendants herein and all other persons are forever barred from asserting any claim to such estate.

11.

It Is Further ORDERED, ADJUDGED and DECREED that on the date of taking in this case, the owners of the estate taken herein in subject tract were the defendants whose names appear below in paragraph 12 and the right to receive the just compensation awarded by this judgment is vested in the parties so named.

12.

It Is Further ORDERED, ADJUDGED and DECREED that the Stipulation described in paragraph 9 is approved and the sum of \$500.00 hereby is adopted as the award of just compensation for the entire estate taken in subject tract, and such award is allocated among the various owners as shown by the following schedule:

TRACT NO. 1021M

Award of just compensation for all interests, pursuant to Court's findings -----	\$500.00
Deposited as estimated compensation -----	<u>\$200.00</u>
Deposit deficiency -----	\$300.00

Ownership and distribution of award:

Owners and Interest Owned	Share of Award	Disbursed	Balance Due
E. C. Welsh ----- 1/2	\$250.00	None	\$250.00
C. D. Hicks, Trustee -- 1/2 for Dallas Daugherty, (Successor to interest of Clara I. Daugherty, deceased)	\$250.00	None	\$250.00

13.

It Is Further ORDERED, ADJUDGED and DECREED that the United States of America shall pay into the Registry of this Court, for the benefit of the owners, the deposit deficiency shown in paragraph 12 above, in the total amount of \$300.00, and such sum shall be placed in the deposit for the subject tract in this civil action.

The Clerk of this Court then shall disburse the deposit for subject tract by paying to each owner the balance due to him as shown above in paragraph 12.

/s/ Allen E. Barrow

UNITED STATES DISTRICT JUDGE

APPROVED:

/s/ Hubert A. Marlow

HUBERT A. MARLOW
Assistant United States Attorney

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

Jack C. Silver, Clerk
U. S. DISTRICT COURT

United States of America,)
)
Plaintiff,)
)
vs.)
)
73.44 Acres of Land, More or)
Less, Situate in Rogers County,)
State of Oklahoma, and J. T.)
Michel, et al., and Unknown)
Owners,)
)
Defendants.)

CIVIL ACTION NO. 72-C-250
Tract No. 324M

J U D G M E N T

1.

Now, on this 8 day of June, 1973, this matter comes on for disposition on application of the Plaintiff, United States of America, for entry of judgment fixing just compensation in this matter. After having examined the files in this action and being advised by counsel, the Court finds:

2.

This judgment applies to the entire estate condemned in Tract No. 324M, as such estate and tract are described in the Complaint filed in this action.

3.

The Court has jurisdiction of the parties and the subject matter of this action.

4.

Service of Process has been perfected either personally or by publication notice, as provided by Rule 71A of the Federal Rules of Civil Procedure, on all parties defendant in this cause who are interested in subject property.

5.

The Acts of Congress set out in paragraph 2 of the Complaint filed herein give the United States of America the right, power and authority to condemn for public use the property described above in paragraph 2. Pursuant thereto, on July 24, 1972, the United States of America filed its Declaration of

Taking of such property, and title thereto should be vested in the United States of America, as of the date of filing such instrument.

6.

Simultaneously with filing the Declaration of Taking, there was deposited in the Registry of this Court as estimated compensation for the estate taken in the subject tract a certain sum of money, and none of this deposit has been disbursed, as set out below in paragraph 13.

7.

A pre-trial hearing in this case was set by the Court for April 3, 1973. Due notice of such hearing was given to all of the parties. The Plaintiff, United States of America, appeared at such hearing by Hubert A. Marlow, Assistant United States Attorney for the Northern District of Oklahoma. Mr. Kenneth L. Stainer, Attorney, appeared for the owner.

8.

At the said pre-trial conference the parties stated their respective opinions as to the value of the subject interest. Neither party requested a trial. Based upon the pre-trial statements of the parties, the Court concludes that a trial is not necessary or advisable and that the sum of \$345.00 should be adopted as the award of just compensation for the subject interest.

9.

This judgment will create a deficiency between the amount deposited as estimated just compensation for the estate taken in subject tract and the amount fixed by the Court as just compensation, and a sum of money sufficient to cover such deficiency should be deposited by the Government. This deficiency is set out below in paragraph 13.

10.

The defendant named in paragraph 13 as owner of the estate taken in the subject tract is the only defendant asserting any interest in such property. All other defendants having either disclaimed or defaulted, the named defendant is the owner of such

property, as of the date of taking and, as such, is entitled to receive the just compensation awarded by this judgment.

11.

It Is, Therefore, ORDERED, ADJUDGED and DECREED that the United States of America has the right, power and authority to condemn for public use the subject tract, as it is described in the Complaint filed herein, and such property, to the extent of the estate described in such Complaint, is condemned, and title thereto is vested in the United States of America, as of July 24, 1972, and all defendants herein and all other persons are forever barred from asserting any claim to such estate.

12.

It Is Further ORDERED, ADJUDGED and DECREED that on the date of taking in this case, the owner of the estate taken herein in subject tract was the defendant whose name appears below in paragraph 13, and the right to receive the just compensation awarded by this judgment is vested in the party so named.

13.

It Is Further ORDERED, ADJUDGED and DECREED that the sum of \$345.00 hereby is adopted as the award of just compensation for the estate taken in subject tract, as shown by the following schedule:

TRACT NO. 324M

Owner:

James T. Michel

Award of just compensation pursuant to Court's findings -----	\$345.00	\$345.00
Deposited as estimated compensation --	225.00	
Disbursed to owner -----		<u>None</u>
Balance due to owner -----		\$345.00 plus interest
Deposit deficiency -----	\$120.00	

14.

It Is Further ORDERED, ADJUDGED and DECREED that the United States of America shall pay into the Registry of this Court for the benefit of the owner the deposit deficiency shown in paragraph 13 above, in the total amount of \$120.00, together with interest thereon computed at the rate of 6% per annum from July 24, 1972, to the date of such payment, and such sum shall be placed in the deposit for the subject tract in this civil action.

Upon receipt of such deficiency deposit the Clerk of this Court shall disburse from the deposit for the subject tract a certain sum as follows:

To James T. Michel, the sum of \$345.00 together with all accrued interest included in the aforesaid deficiency deposit.

/s/ Allen E. Barrow

UNITED STATES DISTRICT JUDGE

APPROVED

/s/ Hubert A. Marlow

HUBERT A. MARLOW
Assistant United States Attorney

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

United States of America,)
)
Plaintiff,)
)
vs.)
)
10.00 Acres of Land, More or)
Less, Situate in Rogers County,)
State of Oklahoma, and Joe)
Titsworth, et al., and Unknown)
Owners,)
)
Defendants.)

JACK O. GIBSON, JR.
U. S. DISTRICT COURT

CIVIL ACTION NO. 72-C-251

Tract No. 701M

J U D G M E N T

1.

Now, on this 8 day of June, 1973, this matter comes on for disposition on application of the Plaintiff, United States of America, for entry of judgment fixing just compensation in this matter. After having examined the files in this action and being advised by counsel, the Court finds:

2.

This judgment applies to the entire estate condemned in Tract No. 701M, as such estate and tract are described in the Complaint filed in this action.

3.

The Court has jurisdiction of the parties and the subject matter of this action.

4.

Service of Process has been perfected either personally or by publication notice, as provided by Rule 71A of the Federal Rules of Civil Procedure, on all parties defendant in this cause who are interested in subject property.

5.

The Acts of Congress set out in paragraph 2 of the Complaint filed herein give the United States of America the right, power and authority to condemn for public use the property described above in paragraph 2. Pursuant thereto, on July 24, 1972, the United States of America filed its Declaration of

Taking of such property, and title thereto should be vested in the United States of America, as of the date of filing such instrument.

6.

Simultaneously with filing the Declaration of Taking, there was deposited in the Registry of this Court as estimated compensation for the estate taken in the subject tract a certain sum of money, and none of this deposit has been disbursed, as set out below in paragraph 12.

7.

A pre-trial hearing in this case was set by the Court for April 3, 1973. Due notice of such hearing was given to all of the parties. The Plaintiff, United States of America, appeared at such hearing by Hubert A. Marlow, Assistant United States Attorney for the Northern District of Oklahoma. The owners of the subject property did not appear, nor did any attorney appear for them.

8.

The Court has been advised by counsel for Plaintiff that in the event of a trial, Plaintiff's evidence would show that \$27.50 was the value of the estate taken in this case. This sum is based upon an appraisal made by J. M. Wanenmacher; and, no objection having been made by the owners, such sum should be adopted as the award of just compensation in this case.

9.

The defendants named in paragraph 12 as owners of the estate taken in the subject tract are the only defendants asserting any interest in such property. All other defendants having either disclaimed or defaulted, the named defendants are the owners of such property, as of the date of taking and, as such, are entitled to receive the just compensation awarded by this judgment.

10.

It Is, Therefore, ORDERED, ADJUDGED and DECREED that the United States of America has the right, power and authority

to condemn for public use the subject tract, as it is described in the Complaint filed herein, and such property, to the extent of the estate described in such Complaint, is condemned, and title thereto is vested in the United States of America, as of July 24, 1972, and all defendants herein and all other persons are forever barred from asserting any claim to such estate.

11.

It Is Further ORDERED, ADJUDGED and DECREED that on the date of taking in this case, the owners of the estate taken herein in subject tract were the defendants whose names appear below in paragraph 12 and the right to receive the just compensation awarded by this judgment is vested in the parties so named.

12.

It Is Further ORDERED, ADJUDGED and DECREED that the sum of \$27.50 hereby is adopted as the award of just compensation for the estate taken in subject tract, and such award is allocated among the various owners as shown by the following schedule:

TRACT NO. 701M

Owners:

Joe Titsworth and		
Vada Park -----	1/2	
Harry L. Reichman -----	1/3	
Audrey Buesch -----	1/12	
(successor in interest to Mae E. Buesch, deceased)		
LaBelle Humphreville -----	1/12	
Award of just compensation pursuant to Court's findings -----	\$27.50	\$27.50
Deposited as estimated compensation -----	\$27.50	
Disbursed to owners -----		<u>None</u>
Balance due to owners -----		\$27.50

13.

It Is Further ORDERED that the Clerk of this Court now shall disburse the deposit for the subject tract as follows:

To: Joe Titsworth and
Vada Park, jointly ----- \$13.75
Harry L. Reichman ----- \$9.17
Audrey Buesch ----- \$2.29
LaBelle Humphreville ----- \$2.29.

/s/ Allen E. Barrow

UNITED STATES DISTRICT JUDGE

APPROVED:

/s/ Hubert A. Marlow

HUBERT A. MARLOW
Assistant United States Attorney

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

United States of America,)
)
Plaintiff,)
)
vs.)
)
10.00 Acres of Land, More or)
Less, Situate in Nowata County,)
State of Oklahoma, and Josephine)
Sams, et al., and Unknown)
Owners,)
)
Defendants.)

RECORDED
U. S. DISTRICT COURT

CIVIL ACTION NO. 72-C-255

Tract No. 1506M

J U D G M E N T

1.

Now, on this 8 day of June, 1973, this matter comes on for disposition on application of the Plaintiff, United States of America, for entry of judgment fixing just compensation in this matter. After having examined the files in this action and being advised by counsel, the Court finds:

2.

This judgment applies to the entire estate condemned in Tract No. 1506M, as such estate and tract are described in the Complaint filed in this action.

3.

The Court has jurisdiction of the parties and the subject matter of this action.

4.

Service of Process has been perfected either personally or by publication notice, as provided by Rule 71A of the Federal Rules of Civil Procedure, on all parties defendant in this cause who are interested in subject property.

5.

The Acts of Congress set out in paragraph 2 of the Complaint filed herein give the United States of America the right, power and authority to condemn for public use the property described above in paragraph 2. Pursuant thereto, on July 24, 1972, the United States of America filed its Declaration of

Taking of such property, and title thereto should be vested in the United States of America, as of the date of filing such instrument.

6.

Simultaneously with filing the Declaration of Taking, there was deposited in the Registry of this Court as estimated compensation for the estate taken in the subject tract a certain sum of money, and none of this deposit has been disbursed, as set out below in paragraph 12.

7.

A pre-trial hearing in this case was set by the Court for April 3, 1973. Due notice of such hearing was given to all of the parties. The Plaintiff, United States of America, appeared at such hearing by Hubert A. Marlow, Assistant United States Attorney for the Northern District of Oklahoma. The owners of the subject property did not appear, nor did any attorney appear for them.

8.

The Court has been advised by counsel for Plaintiff that in the event of a trial, Plaintiff's evidence would show that \$50.00 was the value of the estate taken in this case. This sum is based upon an appraisal made by J. M. Wanenmacher; and, no objection having been made by the owners, such sum should be adopted as the award of just compensation in this case.

9.

The defendants named in paragraph 12 as owners of the estate taken in the subject tract are the only defendants asserting any interest in such property. All other defendants having either disclaimed or defaulted, the named defendants are the owners of such property, as of the date of taking and, as such, are entitled to receive the just compensation awarded by this judgment.

10.

It Is, Therefore, ORDERED, ADJUDGED and DECREED that the United States of America has the right, power and authority

to condemn for public use the subject tract, as it is described in the Complaint filed herein, and such property, to the extent of the estate described in such Complaint, is condemned, and title thereto is vested in the United States of America, as of July 24, 1972, and all defendants herein and all other persons are forever barred from asserting any claim to such estate.

11.

It Is Further ORDERED, ADJUDGED and DECREED that on the date of taking in this case, the owners of the estate taken herein in subject tract were the defendants whose names appear below in paragraph 12 and the right to receive the just compensation awarded by this judgment is vested in the parties so named.

12.

It Is Further ORDERED, ADJUDGED and DECREED that the sum of \$50.00 hereby is adopted as the award of just compensation for the estate taken in subject tract, and such award is allocated among the various owners as shown by the following schedule:

TRACT NO. 1506M

Owners:

Josephine Sams ----- 1/2
Eunice Moore ----- 1/2

Award of just compensation pursuant
to Court's findings ----- \$50.00 \$50.00

Deposited as estimated compensation -- \$50.00

Disbursed to owners ----- None

Balance due to owners ----- \$50.00

13.

It Is Further ORDERED that the Clerk of this Court now shall disburse the deposit for the subject tract as follows:

To: Josephine Sams ----- \$25.00
Eunice Moore ----- \$25.00.

APPROVED:

/s/ Hubert A. Marlow

HUBERT A. MARLOW
Assistant U. S. Attorney

/s/ Allen E. Barrow

UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

United States of America,)
)
Plaintiff,)
)
vs.) CIVIL ACTION NO. 71-C-268
)
30.00 Acres of Land, More or) Tract No. 1101M
Less, Situate in Nowata County,)
State of Oklahoma, and Phil)
Kempton, et al., and Unknown)
Owners,)
)
Defendants.)

FILED

JUN 8 1973

J U D G M E N T

Jack C. Shaw, Clerk
U. S. DISTRICT COURT

1.

NOW, on this 8 day of June, 1973, this matter comes on for disposition on application of the Plaintiff, United States of America, for entry of judgment on a stipulation of the parties agreeing upon just compensation, and the Court, after having examined the files in this action and being advised by counsel for Plaintiff, finds:

2.

This judgment applies to the entire estate condemned in Tract No. 1101M, as such estate and tract are described in the Complaint filed in this action.

3.

The Court has jurisdiction of the parties and subject matter of this action.

4.

Service of Process has been perfected either personally or by publication notice, as provided by Rule 71A of the Federal Rules of Civil Procedure, on all parties defendant in this cause who are interested in subject tract.

5.

The Acts of Congress set out in paragraph 2 of the Complaint herein give the United States of America the right, power and authority to condemn for public use the property described in such Complaint. Pursuant thereto, on July 22, 1971,

the United States of America filed its Declaration of Taking of such described property, and title to the described estate in such property should be vested in the United States of America as of the date of filing the Declaration of Taking.

6.

Simultaneously with filing the Declaration of Taking, there was deposited in the Registry of this Court, as estimated compensation for the taking of a certain estate in subject tract a certain sum of money, and none of this deposit has been disbursed, as set out below in paragraph 11.

7.

The defendants named in paragraph 11 as owners of the subject property are the only defendants asserting any interest in such property. All other defendants having either disclaimed or defaulted, the named defendants were, as of the date of taking, the owners of the subject property and, as such, are entitled to receive the just compensation awarded by this judgment.

8.

The owners of the subject tract and the United States of America have executed and filed herein a Stipulation As To Just Compensation wherein they have agreed that just compensation for the estate condemned in subject tract is in the amount shown as compensation in paragraph 11 below, and such Stipulation should be approved.

9.

It Is, Therefore, ORDERED, ADJUDGED, and DECREED that the United States of America has the right, power and authority to condemn for public use Tract No. 1101M, as such tract is particularly described in the Complaint filed herein; and such tract, to the extent of the estate described in such Complaint, is condemned, and title thereto is vested in the United States of America, as of July 22, 1971, and all defendants herein and all other persons interested in such estate are forever barred from asserting any claim to such estate.

10.

It Is Further ORDERED, ADJUDGED and DECREED that on the date of taking, the owners of the estate condemned herein in subject tract were the defendants whose names appear below in paragraph 11, and the right to receive the just compensation for the estate taken herein in this tract is vested in the parties so named.

11.

It Is Further ORDERED, ADJUDGED and DECREED that the Stipulation As To Just Compensation mentioned in paragraph 8 above hereby is confirmed; and the sum thereby fixed is adopted as the award of just compensation for the estate condemned in subject tract as follows:

TRACT NO. 1101M

Owners:

Xenoclea Coker Wilkinson and
Lillian Coker Sweaney

Award of just compensation pursuant to Stipulation -----	\$900.00	\$900.00
Deposited as estimated compensation - <u>\$900.00</u>		
Disbursed to owners -----		<u>None</u>
Balance due to owners -----		\$900.00

12.

It Is Further ORDERED, ADJUDGED and DECREED that the Clerk of this Court now shall disburse the deposit in this case as follows:

To Xenoclea Coker Wilkinson and
Lillian Coker Sweaney, jointly, ----- \$900.00.

/s/ Allen E. Barrow
UNITED STATES DISTRICT JUDGE

APPROVED:

/s/ Hubert A. Marlow

HUBERT A. MARLOW
Assistant United States Attorney

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

United States of America,)	
)	
Plaintiff,)	
)	
vs.	)	CIVIL ACTION NO. 72-C-252
)	
17.98 Acres of Land, More or	)	Tract No. 702M
Less, Situate in Rogers County,)	
State of Oklahoma, and C. M.)	
Easter, et al., and Unknown)	
Owners,)	
)	
Defendants.)	

FILED

JUN 8 1973

Jack C. Silver, Clerk
U. S. DISTRICT COURT

J U D G M E N T

1.

Now, on this 8 day of June, 1973, this matter comes on for disposition on application of the Plaintiff, United States of America, for entry of judgment fixing just compensation in this matter. After having examined the files in this action and being advised by counsel, the Court finds:

2.

This judgment applies to the entire estate condemned in Tract No. 702M, as such estate and tract are described in the Complaint filed in this action.

3.

The Court has jurisdiction of the parties and the subject matter of this action.

4.

Service of Process has been perfected either personally or by publication notice, as provided by Rule 71A of the Federal Rules of Civil Procedure, on all parties defendant in this cause who are interested in subject property.

5.

The Acts of Congress set out in paragraph 2 of the Complaint filed herein give the United States of America the right, power and authority to condemn for public use the property described above in paragraph 2. Pursuant thereto, on July 24, 1972, the United States of America filed its Declaration of

Taking of such property, and title thereto should be vested in the United States of America, as of the date of filing such instrument.

6.

Simultaneously with filing the Declaration of Taking, there was deposited in the Registry of this Court as estimated compensation for the estate taken in the subject tract a certain sum of money, and none of this deposit has been disbursed, as set out below in paragraph 12.

7.

A pre-trial hearing in this case was set by the Court for April 3, 1973. Due notice of such hearing was given to all of the parties. The Plaintiff, United States of America, appeared at such hearing by Hubert A. Marlow, Assistant United States Attorney for the Northern District of Oklahoma. The owners of the subject property did not appear, nor did any attorney appear for them.

8.

The Court has been advised by counsel for Plaintiff that in the event of a trial, Plaintiff's evidence would show that \$25.00 was the value of the estate taken in this case. This sum is based upon an appraisal made by J. M. Wanenmacher; and, no objection having been made by the owners, such sum should be adopted as the award of just compensation in this case.

9.

The defendants named in paragraph 12 as owners of the estate taken in the subject tract are the only defendants asserting any interest in such property. All other defendants having either disclaimed or defaulted, the named defendants are the owners of such property, as of the date of taking and, as such, are entitled to receive the just compensation awarded by this judgment.

10.

It Is, Therefore, ORDERED, ADJUDGED and DECREED that the United States of America has the right, power and authority

to condemn for public use the subject tract, as it is described in the Complaint filed herein, and such property, to the extent of the estate described in such Complaint, is condemned, and title thereto is vested in the United States of America, as of July 24, 1972, and all defendants herein and all other persons are forever barred from asserting any claim to such estate.

11.

It Is Further ORDERED, ADJUDGED and DECREED that on the date of taking in this case, the owners of the estate taken herein in subject tract were the defendants whose names appear below in paragraph 12 and the right to receive the just compensation awarded by this judgment is vested in the parties so named.

12.

It Is Further ORDERED, ADJUDGED and DECREED that the sum of \$25.00 hereby is adopted as the award of just compensation for the estate taken in subject tract, and such award is allocated among the various owners as shown by the following schedule:

TRACT NO. 702M

Owners:

C. M. Easter -----	1/2
Harry L. Reichman -----	1/3
Audrey Buesch -----	1/12
(successor in interest to Mae E Buesch, deceased)	
LaBelle Humphreville -----	1/12

Award of just compensation pursuant to Court's findings -----	\$25.00	\$25.00
Deposited as estimated compensation ----	<u>\$25.00</u>	
Disbursed to owners -----		<u>None</u>
Balance due to owners -----		\$25.00

13.

It Is Further ORDERED that the Clerk of this Court now shall disburse the deposit for the subject tract as follows:

To: C. M. Easter ----- \$12.50
Harry L. Reichman ----- \$8.34
Audrey Buesch ----- \$2.08
LaBelle Humphreville ----- \$2.08.

/s/ Allen E. Barrow

UNITED STATES DISTRICT JUDGE

APPROVED:

/s/ Hubert A. Marlow

HUBERT A. MARLOW
Assistant United States Attorney

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

JACK ALLEN BARBER,)
)
 Petitioner,)
)
v.)
)
PARK J. ANDERSON, Warden,)
)
 Respondent.)

NO. 73-C-45

FILED

JUN 8 1973

Jack C. Silver, Clerk
U. S. DISTRICT COURT

ORDER

The petitioner has filed herein his Application for a Writ of Habeas Corpus. He is presently confined in the Oklahoma State Penitentiary at McAlester, Oklahoma, by virtue of the judgment and sentence rendered by the District Court of Tulsa County, State of Oklahoma, Case No. 23,585. After a trial by jury on January 7th through the 9th, 1969, petitioner was convicted of the offense of carrying a firearm after former conviction of a felony and sentenced to a term of eight (8) years imprisonment. After his conviction the petitioner lodged an appeal with the Court of Criminal Appeals for the State of Oklahoma in Case No. A-15,123 and was released on \$5,000.00 bond pending the determination of his appeal. Shortly after his release on bond the petitioner left the jurisdiction of the state and was, on February 13, 1969, arrested in Ft. Smith, Arkansas on charges for which he was convicted and imprisoned by the Arkansas authorities. He was not returned to Oklahoma until some three years later. Meanwhile, on March 6, 1969, the Court of Criminal Appeals dismissed his appeal. On his return to the State of Oklahoma, the petitioner filed an application for post conviction relief in the sentencing court in which he alleged four grounds for relief:

1. Former jeopardy.
2. Unconstitutional discriminations against a person formerly convicted of a felony.
3. Denial of a change of venue.
4. Denial of his right to appeal.

On May 19, 1972, the District Court of Tulsa County denied his application for post conviction relief. He then appealed to the Court of Criminal Appeals of the State of Oklahoma from this order. On June 19, 1972, the appeals court affirmed the order of the trial court.

The petitioner now claims that his detention by the respondent is unlawful because:

1. "Petitioner's conviction of carrying a firearm, after former conviction of a felony was obtained in violation of his rights prohibiting double jeopardy."
2. "Petitioner's right to a fair and impartial trial was violated making judgment of conviction void" by improper remarks by the prosecuting attorney.
3. "Petitioner's right to a first appeal on the merits has been denied in violation of the first and fourteenth amendments to the Constitution."
4. "The statutory offense of carrying a firearm, after former conviction of a felony is invalid by reason of its discriminatory nature and execution."

The petitioner has exhausted his state remedies on every contention except that one concerning the alleged improper remarks by the prosecuting attorney. In essence, the exhaustion doctrine requires a state prisoner to afford the state courts the opportunity to consider and resolve claims of constitutional infirmity before raising these claims in federal court. See Watson v. Patterson, 358 F.2d 297 (CA10 1966), cert. denied 385 U.S. 876. Here the records disclose that the complaint of the petitioner concerning the denial of a fair trial was not submitted to the sentencing court for consideration in his application for post conviction relief. Therefore, with regard to this new theory, petitioner has failed to exhaust his state remedies. See Gurule v. Turner, 461 F.2d 1083 (CA10 1972). The petitioner must exhaust his state remedies available under the Oklahoma Post Conviction Procedures Act on this issue before this court will consider it. See Brown v. Crouse, 395 F.2d 755 (CA10 1968); Omo v. Crouse, 395 F.2d 757 (CA10 1968).

The allegations of the petitioner do not establish that his conviction for the carrying of a firearm after former conviction of a felony constituted double jeopardy. According to him, he was arrested during the early morning hours of September 5, 1968,

at the "Pink Pussy Club" in Tulsa County, Oklahoma and charged with the commission of three criminal offenses: "Assault and Battery," "Pointing a deadly weapon" and "Carrying a firearm after former conviction of a felony". He states that all three charges arose out of the same incident which took place in the "Club" parking area within the hour prior to his arrest. On October 21, 1968, he was convicted of the offense of "pointing a deadly weapon" which he now contends barred his conviction on the offense for which he now is detained. He relies upon the single transaction theory and collateral estoppel to sustain his contention of double jeopardy. He misconceives the principle of collateral estoppel. In Ashe v. Swenson, 397 U.S. 436 (1970) the Supreme Court held that a single sovereign cannot prosecute for separate offenses occurring in a single event where the result of the first prosecution collaterally and undeniably establishes the innocence of the accused in the second charge. The doctrine of collateral estoppel has no application here for petitioner was convicted in the first prosecution. Nor is the single transaction theory urged upon the court by petitioner embraced within the federal constitutional prohibition against double jeopardy. There is no federal constitutional requirement that a premium benefit should inhere in a criminal spree. Birch v. United States, 451 F.2d 165 (CA10 1971). It is well settled that the double jeopardy clause does not bar conviction and sentence for multiple offenses arising out of one transaction of criminal conduct where each offense rests on different criminal elements. Smith v. Gaffney, 462 F.2d 663 (CA10 1972). In Lockburger v. United States, 284 U.S. 299 (1931) the Supreme Court declared that:

"The applicable rule is that where the same act or transaction constitutes a violation of two distinct statutory provisions, the test to be applied to determine whether there are two offenses or only one is whether each provision requires proof of a fact which the other does not."
284 U.S. at 304.

The crime of "pointing a deadly weapon" consists of: (1) possession of a firearm, and (2) of pointing it at some person. See 21 O.S.A. § 1279. In order to convict for the offense of "carrying a firearm after former conviction of a felony" it is required that (1) the accused be a person formerly convicted of a felony, and that (2) he was carrying on his person or in any vehicle which he was operating

✓
or in which he was riding as a passenger, a firearm. Since each offense requires proof of a fact not essential to the other, the charges were not identical and the petitioner could be charged, tried and convicted on both offenses even though the charges arose out of the same transaction. Goldsmith v. Cheney, 447 F.2d 624 (CA10 1971).

There was not an unconstitutional denial of an appeal by the State of Oklahoma. The petitioner by his absence deprived the court of the power to execute its mandate if the judgment on appeal was affirmed. A court has the inherent discretion to refuse to hear the claims of a litigant who has fled the jurisdiction of the court. Johnson v. Laird, 432 F.2d 77 (CA9 1970). In Molinaro v. New Jersey, 396 U.S. 365 (1970) the Supreme Court dismissed the appeal of an appellant from his state conviction where the appellant who had been free on bail failed to surrender himself to the state authorities and was considered by the state to be a fugitive from justice. The court stated:

"No persuasive reason exists why this Court should proceed to adjudicate the merits of a criminal case after the convicted defendant who has sought review escapes from the restraint placed upon him pursuant to the conviction. While such an escape does not strip the case of its character as an adjudicable case or controversy, we believe that it dis-entitles the defendant to call upon the resources of the Court for determination of his claims." 396 U.S. at 366.

See also Eisler v. United States, 338 U.S. 189 (1949); Bonahan v. Nebraska, 125 U.S. 692 (1887); Smith v. United States, 94 U.S. 97 (1876); United States v. Tremont, 438 F.2d 1202 (CA1 1971); United States v. Dawson, 350 F.2d 397 (CA6 1965); Stern v. United States, 249 F.2d 720 (CA2 1957).

In Allen v. Georgia, 166 U. S. 138 (1897) the appellant had been convicted of murder and appealed to the state supreme court. He then escaped and while he was a fugitive from justice the court dismissed his appeal. He was recaptured and resentenced to death. He then sued out a writ of error to the United States Supreme Court claiming that the dismissal of his appeal by the Georgia Supreme Court was a denial of due process of law. The Supreme Court rejected the appellant's contention:

"Whether the court should give the plaintiff 60 days, or until the last day of the term, to appear and surrender himself to custody, was a matter for the court to determine, and even if there were error in that particular,

it would not constitute a denial of due process of law."
166 U.S. at 142.

Finally, petitioner contends that by prohibiting felons from carrying firearms the state unconstitutionally discriminates against convicted persons. He argues that the statute "punishes him for state of being to which there is no known cure, remedy or corrective process." This is patently frivolous and false. He is being punished for carrying a firearm and not simply because he is a felon. The obvious "remedy" for him is not to carry a firearm, and if he accepts this "cure" he will never be punished under this statute again. Legislation restricting possession of firearms will not be stricken if any set of facts reasonably may be conceived to justify it and the statutory classification of "felons" and "firearms" has a rational basis. United States v. Synnes, 438 F.2d 764 (CA8 1971). As the court explained in State v. Robinson, 217 Ore. 612, 343 P.2d 886:

"Such a person displays a lack of proper regard for the duties of citizenship and the normal restraints to which virtually all others yield instinctively. By his own felonious conduct he classifies himself and places himself in a category different from that composed of the law abiding. When the legislature concludes that a person of that kind cannot be trusted with a concealable weapon we surely cannot say that its decision lacks reason."
343 P.2d at 888.

In considering a similar attack upon the provisions of the Omnibus Crime and Safe Streets Act of 1968 the court stated in United States v. Karnes, 437 F.2d 284 (CA9 1971):

"Common sense at least indicates that persons with criminal convictions would have more of a tendency to commit a crime of violence than persons without criminal records. Without proof to the contrary, we are compelled to reach the conclusion that this legislation is not without some rational basis. It is not clearly unfounded, thus it is constitutional."
437 F.2d at 289.

Since the application together with the files and records examined by the court conclusively show the petitioner is entitled to no relief and there are no material issues of fact, an evidentiary hearing is not required. Boyd v. State of Oklahoma, 375 F.2d 481 (CA10 1967).

Accordingly, the court will deny the request for the appointment of counsel and the petition for writ of habeas corpus.

IT IS SO ORDERED.

Dated this 7th day of June, 1973.

Walter Bohannon
United States District Judge

IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF OKLAHOMA

DAISY MOORE,

Plaintiff,

vs.

SAFEWAY STORES, INC.
A Corporation, of Sapulpa,
Oklahoma,

Defendant.

No. 70-C-49

FILED

JUN 7 1973

Jack C. Silver, Clerk
U. S. DISTRICT COURT

ORDER

THIS cause coming on to be heard before me, the undersigned Judge of this Court, on this 24th day of May, 1973, upon defendant's Motion to Continue Remand and plaintiff appearing with her attorney, L. G. Hawkins, and defendants appearing with their attorney, Phillips Breckinridge, and the Court hereby finds as follows, to wit:

1) That on April 23, 1973, the Court sustained plaintiff's Motion to Remand after having made proper inquiry and investigation, and having found that the value of plaintiff's cause of action is below the amount required by law for Federal Diversity of Citizenship; and the Court having allowed time for defendant to file a Motion to Condition Remand.

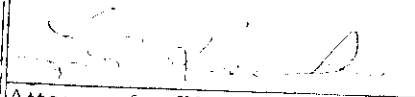
2) The Court having considered said motion and briefs in opposition and in support of same, hereby finds that said Motion should be over-ruled and that both parties hereto are liable for their costs in this matter.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that this cause is hereby remanded to the District Court of Creek County, Oklahoma, Bristow Division, and that both parties hereto are liable for costs incurred by them in this lawsuit.

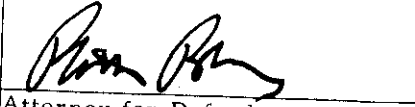
June 6th 1973

Katherine Bohannon
Judge of the District Court.

APPROVED AS TO FORM:



Attorney for Plaintiff.



Attorney for Defendant.

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

ALBERT GLENN REED,

Petitioner,

vs.

PARK J. ANDERSON, Warden,
Oklahoma State Penitentiary,
McAlester, Oklahoma, et al.,

Respondent.

NO. 72-C-280

FILED

JUN 7 1973

Jack C. Silver, Clerk
U. S. DISTRICT COURT

O R D E R

THE COURT, having examined the files of this proceeding, and the second report of the United States Magistrate concerning the same and being fully advised in the premises, FINDS:

1. The allegation of the petitioner that he was denied effective assistance of counsel is without merit and should be denied.
2. The allegation of petitioner that he was denied the right of appeal is not sustained by the facts as disclosed by the file including the transcript of the judgment and sentence and same is frivolous and without merit and should be denied.
3. The allegation of petitioner of his right to transcript of State Court proceedings is not sustained in law or fact and should be denied.

IT IS, THEREFORE ORDERED:

That petitioner's motion pursuant to 28 U.S.C. § 2254 is denied;

That a copy of this Order be mailed by the Clerk of this Court to the petitioner together with a copy of the second report of the United States Magistrate;

That the Clerk of this Court furnish to respondent a copy of this Order together with a copy of the second report of the United States Magistrate, by mailing the same to the Attorney General of the State of Oklahoma, State Capitol Building, Oklahoma City, Oklahoma.

Dated this 7th day of June, 1973, at Tulsa, Oklahoma.


CHIEF JUDGE, UNITED STATES DISTRICT
COURT FOR THE NORTHERN DISTRICT OF
OKLAHOMA

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

IN THE MATTER OF)
TERRY LEE RADCLIFF,)
)
Petitioner,)
)
-vs-)
)
PARK ANDERSON, WARDEN,)
OKLAHOMA STATE PENITENTIARY,)
)
Respondent.)

Case No. 73-C-81

FILED

JUN 6 1973

Jack C. Silver, Clerk
U. S. DISTRICT COURT

O R D E R

Petitioner, a State prisoner, has filed a Petition for Writ of Habeas Corpus alleging that he is being held in custody unlawfully on a conviction for armed robbery after former conviction of a felony. Petitioner complains that the former conviction involved in the conviction and sentence he is now serving was void and illegal for the reason that it was for an offense he committed while 17 years of age. It is alleged that the former conviction under attack was imposed in the District Court of Tulsa County, State of Oklahoma, on December 6, 1965 and should be vacated for the reason that his constitutional right to the equal protection under the laws was violated due to his being tried as an adult while a female of like age would have had the purported benefit of being prosecuted as a juvenile for the commission of the same offense. The Petitioner has been denied State relief and has exhausted his available State remedies as to the complaint raised herein.

Petitioner relies on Lamb v. Brown, 456 F. 2d 18 (Tenth Cir. 1972), in which case the Court stated:

"Because the purpose of the disparity in the age classification between 16-18 year old males and 16-18 year old females has not been demonstrated, we hold that 10 Okl.St. Ann. §1101(a) is violative of the equal protection clause. THIS RULING SHALL NOT APPLY RETROACTIVELY." (Emphasis supplied)

Petitioner urges that he is entitled to the benefit of the Lamb decision alleging that the cases of Robinson v. Neil, ___ U.S. ___, 93 S.Ct. 876, 35 L.Ed. 2d 29 (1973) and Woodall v. Pettibone, 465 F. 2d 49 (Fourth Cir. 1972) are controlling. It is presumed that Petitioner desires this Court to disregard the plain language of our Court of Appeals in the Lamb decision and apply same retroactively to his former conviction. The Respondent contends that this Court should deny the Writ and dismiss this action for the reason that Petitioner's earlier conviction under attack was had prior to the Lamb decision and said decision therefore cannot apply thereto.

In the case of Myer Aaron Ruhm v. Bob Turner, Sheriff, et al., ___ F. Supp. ___ (W.D. Okl. 1973), this Court concluded that our Court of Appeals determined that its ruling in Lamb did not meet the pertinent criteria for retroactive application and, "shall not apply retroactively." See Linkletter v. Walker, 381 U.S. 618 (1965) and Annotation, Prospective or Retroactive Operation of Overruling Decision, 10 ALR 3d 1371.

The case of Woodall v. Pettibone, supra, relied upon by Petitioner is a decision wherein the United States Court of Appeals for the Fourth Circuit gave retroactive application to a ruling that a Maryland law requiring 16 and 17 year olds in Baltimore to be tried as adults whereas those of such ages in other parts of the state came within the jurisdiction of the juvenile courts was unconstitutional. The Woodall decision by another Circuit does not control over Lamb in our Circuit as to retroactivity.

In Robinson v. Neil, supra, the Supreme Court considered the line of cases following its landmark decision of Linkletter v. Walker, supra, relating to determining which rulings were to be accorded retrospective and which prospective effect. The Court stated in 35 L. Ed. 2d pp. 32 and 33:

" . . . Linkletter and the other cases relied upon by the Sixth Circuit dealt with those constitutional interpretations bearing on the use of evidence or on a particular mode of trial. Those procedural rights and methods of conducting trials, however, do not encompass all of the rights found in the first eight Amendments. Guarantees that do not relate to these procedural rules cannot, for retroactivity purposes, be lumped conveniently together in terms of analysis. For the purpose and effect of the various constitutional guarantees vary sufficiently among themselves so as to affect the necessity for prospective rather than retrospective application."

* * * *

"The guarantee against double jeopardy is significantly different from procedural guarantees held in the Linkletter line of cases to have prospective effect only. While this guarantee, like the others, is a constitutional right of the criminal defendant, its practical result is to prevent a trial from taking place at all, rather than to prescribe procedural rules which govern the

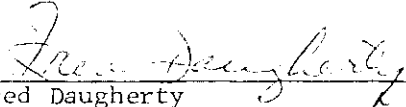
conduct of a trial. A number of the constitutional rules applied prospectively only under the Linkletter cases have been directed instead to collateral purposes such as the deterrence of unlawful police conduct, Mapp v. Ohio, supra. In Waller, however, the Court's ruling was squarely directed to the prevention of the second trial taking place at all, even though it might have been conducted with a scrupulous regard for all of the constitutional procedural rights of the defendant."

Robinson v. Neil, supra, stands for the proposition that a double jeopardy situation is substantive and not procedural because a second trial is not allowed and therefore a new decision in this field should be ordered to be retroactive. In Lamb, supra, our Circuit apparently treated the situation therein involved (adult proceeding or juvenile proceeding) to be procedural in nature rather than substantive as a proceeding would take place in any event and thereupon directed that its decision in Lamb, supra, shall not apply retroactively.

This Court fully agrees with these determinations made in Lamb, supra, and certainly is not inclined to proceed contrary to the decision and directive of that case that the decision therein shall not be applied retroactively.

Plaintiff's action is dismissed.

It is so ordered this 6 day of June, 1973.


Fred Daugherty
United States District Judge

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
vs.)
)
DARRELL LEE CRAIG, et al.,)
)
)
 Defendants.)

Civil Action No. 73-C-36

FILED
JUN 6 1973

Jack C. Silver, Clerk
U.S. DISTRICT COURT

JUDGMENT OF FORECLOSURE

THIS MATTER COMES on for consideration this 6 day
of June, 1973, the plaintiff appearing by Robert P.
Santee, Assistant United States Attorney, and the defendants,
Darrell Lee Craig and Frances Mae Craig, appearing not.

The Court being fully advised and having examined the
file herein finds that after diligent effort the whereabouts and
residence of the defendants, Darrell Lee Craig and Frances Mae Craig,
cannot be ascertained; that these defendants were served by publica-
tion as appears from the Proof of Publication filed herein on May 23,
1973, and

It appearing that the said defendants have failed to
answer herein and that default has been entered by the Clerk
of this Court.

The Court further finds that this is a suit based upon
a mortgage note and foreclosure on a real property mortgage secur-
ing said mortgage note and that the following described real
property is located in Tulsa County, Oklahoma, within the Northern
Judicial District of Oklahoma:

Lot Eighteen (18) and the South One-Half (S 1/2)
of Lot Nineteen (19), in Block Eleven (11),
VERNDALE, an Addition to the City of Tulsa,
Tulsa County, State of Oklahoma, according to
the recorded Plat thereof.

THAT the defendants, Darrell Lee Craig and Frances Mae Craig,
did, on the 27th day of November, 1971, execute and deliver to the
Administrator of Veterans Affairs, their mortgage and mortgage note

in the sum of \$15,000.00 with 7 1/2 per cent interest per annum, and further providing for the payment of monthly installments of principal and interest; and

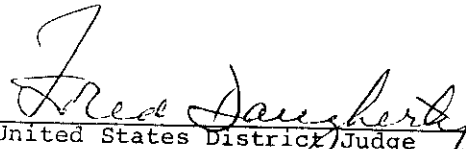
The Court further finds that the defendants, Darrell Lee Craig and Frances Mae Craig, made default under the terms of the aforesaid mortgage note by reason of their failure to make monthly installments due thereon for more than 12 months last past, which default has continued and that by reason thereof the above-named defendants are now indebted to the plaintiff in the sum of \$14,932.11 as unpaid principal, with interest thereon at the rate of 7 1/2 per cent interest per annum from June 1, 1972, until paid, plus the cost of this action accrued and accruing.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the plaintiff have and recover judgment against defendants, Darrell Lee Craig and Frances Mae Craig, ^{in rem} ~~For~~ the sum of \$14,932.11 with interest thereon at the rate of 7 1/2 per cent per annum from June 1, 1972, plus the cost of this action accrued and accruing, plus any additional sums advanced or to be advanced or expended during this foreclosure action by plaintiff for taxes, insurance, abstracting, or sums for the preservation of the subject property.

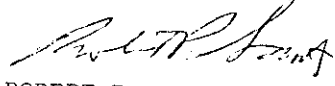
IT IS FURTHER ORDERED, ADJUDGED AND DECREED that upon the failure of said defendants to satisfy plaintiff's money judgment herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell, with appraisement the real property and apply the proceeds thereof in satisfaction of plaintiff's judgment. The residue, if any, to be deposited with the Clerk of the Court to await further order of the Court.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that from and after the sale of said property, under and by virtue of this judgment and decree, all of the defendants and each of them and all persons claiming under them since the filing of the complaint

herein be and they are forever barred and foreclosed of any right,
title, interest or claim in or to the real property or any part
thereof.


United States District Judge

APPROVED.


ROBERT P. SANTEE
Assistant United States Attorney

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

CHARLES C. HIGGINS,)
)
Plaintiff,)
vs.)
)
UNITED STATES OF AMERICA,)
)
Defendant.)

No. 72-C-446

FILED

JUN 6 1973 *pc*

Jack C. Silver, Clerk
U. S. DISTRICT COURT

J U D G M E N T

WHEREAS, the Court did on the 5th day of June, 1973, file in this cause its Findings of Fact and Conclusions of Law, and based thereon the Court enters Judgment in favor of the plaintiff, and

IT IS THEREFORE, ORDERED ADJUDGED AND DECREED that the plaintiff, Charles C. Higgins, have and recover judgment of and from the United States of America in the sum of \$67,520.82 together with interest thereon as provided by law from the date hereof.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that no attorney's fee shall apply to \$7,520.82 of the judgment, the same being the hospital, doctor, and medication expenses and other physical treatment for the improvement of the health and welfare of the plaintiff.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the attorneys representing the plaintiff be paid for their services in prosecuting this action twenty percent (20%) of the \$60,000.00 judgment hereinabove awarded.

Dated this 5 day of June, 1973.

Rutter Bohannon
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

In The Matter Of)
)
JAMES BRITTON WEEDIN and)
MEREDITH M. WEEDIN)

No. 72-B-394
72-B-895

FILED

JUN 5 1973

WILLIAM E. RUTLEDGE
REFeree IN BANKRUPTCY,
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLA.

FINDINGS OF FACT AND JUDGMENT

This matter came on for hearing upon the Petition to Determine Dischargeability of a Debt filed by Nationwide Finance Corp. and Demand for Judgment Upon Default after the bankrupts' failure to respond to the Petition. The Court finds that the bankrupts were duly notified of the Petition and were ordered to respond as required by law but they refused, failed and neglected so to do, whereupon the matter was set for hearing and the bankrupts and their counsel were duly notified but appeared not.

The Court then heard the sworn testimony of the movant Nationwide Finance Corporation and finds that the material allegations of its Petition are true and that they are entitled to judgment against the bankrupts, James Britton Weedon and Meredith M. Weedon determining that their debt to Nationwide Finance Corporation not be discharged to the extent of One Thousand Twenty Dollars (\$1,020.00) for which judgment is entered against the bankrupts, James Britton Weedon and Meredith M. Weedon.

JUDGMENT

It is the Judgment of the Court that Nationwide Finance Corporation have and recover judgment against James Britton Weedon and Meredith M. Weedon in the amount of One Thousand Twenty and no/100 Dollars (\$1,020.00) and costs of the action, all for which let execution issue.

Dated this 5th day of May, 1973.

William E. Rutledge
WILLIAM E. RUTLEDGE,
Referee in Bankruptcy

I hereby certify the foregoing to
be a true copy of original on file
in office of Referee in Bankruptcy
for the U. S. District Court for the
Northern District of Oklahoma.

Clerk, Office of Referee in Bankruptcy

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

CLYDE GLOVER, CARL BARNETT,)
and LEO B. HOWARD,)

Plaintiffs,)

vs.)

No. 71-C-3

EDUCATORS PREFERRED HOLDING)
COMPANY; EPIC ENTERPRISES,)
INC.; EPIC FINANCE COMPANY;)
JERRY HOLBROOK and W. R.)
YEUBANKS,)

Defendants.)

FILED

JUN 5 1973

Jack C. Silver, Clerk
U. S. DISTRICT COURT

O R D E R

On this 30th day of May, 1973, there comes on for hearing before me, the undersigned Judge of the United States District Court for the Northern District of Oklahoma, the joint Application of the plaintiffs and the defendants to dismiss cause of action with prejudice and to approve the proposed Compromise and Settlement in such form as set forth in "Exhibit A" and attached hereto. The original plaintiffs, Clyde Glover, Carl Barnett, and Leo B. Howard, were represented by their attorney Richard T. Sonberg, and the defendants, Educators Preferred Holding Company, EPIC Enterprises, Inc., Epic Finance Company, Jerry Holbrook, and W. R. Yeubanks, were represented by their attorney David W. Jackson. The Court, having examined the record in the matter, and being fully advised in the premises, finds as follows:

1. That notice of this hearing, in the form as set forth in "Exhibit B" and attached hereto, was duly mailed to all of the stockholders of EPIC Enterprises, Inc., on or about April 30, 1973, which notice accurately and fairly sets forth the content of the proposed Compromise and Settlement.


2. That no objections to the proposed Compromise and Settlement, and dismissal of this cause of action with prejudice were presented by members of the class established in this action.

3. That the proposed Compromise and Settlement of Class Action fairly resolves the issues raised in the class action and fairly protects the rights of the members of the class established in this cause of action.


IT IS, THEREFORE, ORDERED by the Court that the joint Application of plaintiffs and defendants to dismiss cause of action with prejudice is hereby approved;


IT IS FURTHER ORDERED by the Court that the proposed Compromise and Settlement, in such form as set forth in "Exhibit A" and attached hereto, is hereby approved;

IT IS FURTHER ORDERED that the Court shall retain jurisdiction in this matter in order to settle any disputes arising out of the proposed Compromise and Settlement.


Allen E. Barrow, Judge
United States District Court for
the Northern District of Oklahoma

APPROVED AS TO FORM AND CONTENT:


Richard T. Sonberg
Attorney for Plaintiffs


David W. Jackson
Attorney for Defendants

IN THE UNITED STATES DISTRICT COURT FOR THE **FILED**

NORTHERN DISTRICT OF OKLAHOMA

JUN 5 1973

JESSIE JAMES HAYNES,

Plaintiff,

vs.

STEWART A. PEARCE and
JAMES (Jim) KHOURIE,

Defendants.

) Jack C. Silver, Clerk
) U. S. DISTRICT COURT
)

) NO. 73-C-78
)
)
)

O R D E R

The Court has for consideration an action filed by Jessie James Haynes seeking damages from James Khourie and Stewart A. Pearce for alleged failure to properly defend the plaintiff in criminal actions in the Tulsa County District Court, State of Oklahoma. Said State prosecutions are Case No. 23,295 wherein the defendant entered a plea of guilty on June 4, 1968, and was sentenced to 15 years imprisonment; and, Case No. 23,300 wherein the defendant entered a plea of guilty on June 4, 1968, and was sentenced to 15 years imprisonment to run concurrently with the sentence in Case No. 23,295.

Said State action No. 23,295 charged the defendant by information with second degree rape in that on the 5th day of March, 1968, he "did unlawfully, feloniously, and wilfully rape, ravish, carnally know and have sexual intercourse with one Leota Marie Hennington, a female person not the wife of the said defendant, the said female being then and there under the age of sixteen (16) years" In State Action No. 23,300, Jessie James Haynes was charged by information with second degree rape in that on the 24th day of December, 1966, he "did unlawfully, feloniously, and wilfully rape, ravish, carnally know and have sexual intercourse with one Leota Marie Hennington Haynes, a female person not the wife of the said defendant, the said female being then and there under the age of sixteen (16) years;"

On December 22, 1960, the victim in these cases, then eight years of age, was taken into the home of the defendant and his wife where the child was maintained without formal adoption. Although the wife is alleged to have left the home in May of 1965, there is no record that the couple has been divorced; thus, the said Jessie James Haynes is not and has never been free to enter marriage with his victim or any other. Further, it is the law in the State of Oklahoma that an act of sexual inter-


course accomplished with a female under the age of 16 years, not the wife of the perpetrator, is rape in the second degree, whether such act is accomplished by means of force or with consent. Also, in a prosecution for statutory rape, marriage of the defendant and his victim is no defense to the prosecution.

It has been previously determined in both State and Federal Court, upon review of the transcript of the plea and sentence of Jessie James Haynes, that the verdict of guilty was rendered on a free, knowing and voluntary plea of guilty which is not subject to collateral attack.

The Court finds that the petition herein should be denied and dismissed as the allegations are frivolous, totally without merit, barred by the statute of limitations applicable, and they are second and subsequent having been presented one or more times in numerous prior proceedings, e.g., see Cases No. 70-C-222, 70-C-311, 71-C-69, 72-C-320, 72-C-379, 72-C-380, 72-C-449, 72-C-461, 73-C-49, and 73-C-77.

IT IS, THEREFORE, ORDERED that the Motions to Dismiss are sustained and this cause of action be and it is hereby denied and dismissed.

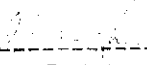
Dated this 5th day of June, 1973, at Tulsa, Oklahoma.


CHIEF JUDGE, UNITED STATES DISTRICT
COURT FOR THE NORTHERN DISTRICT OF
OKLAHOMA

United States District Court)
Northern District of Oklahoma) ss

I hereby certify that the foregoing
is a true copy of the original on file
in this Court.

Jack C. Silver, Clerk

By 
Deputy

FILED

IN THE UNITED STATES DISTRICT COURT FOR THE JUN 5 1973

NORTHERN DISTRICT OF OKLAHOMA

JESSIE JAMES HAYNES,

Plaintiff,

vs.

ROBERT D. SIMMS,

Defendant.

Jack C. Silver, Clerk
U. S. DISTRICT COURT,

NO. 73-C-168

O R D E R

The Court has yet another action by Jessie James Haynes reiterating as in the past the claim that he has been denied constitutional rights and should receive damages for his convictions in Cases No. 23,295 and No. 23,300 in the Tulsa County District Court, State of Oklahoma, e.g., see Cases No. 70-C-222, 70-C-311, 71-C-69, 72-C-320, 72-C-379, 72-C-380, 72-C-449, 72-C-461, 73-C-49, 73-C-77, and 73-C-78.

In said State action No. 23,295, the defendant was charged by information with second degree rape in that on the 5th day of March, 1968, he "did unlawfully, feloniously, and wilfully rape, ravish, carnally know and have sexual intercourse with one Leota Marie Hennington, a female person not the wife of the said defendant, the said female being then and there under the age of sixteen (16) years . . ." The defendant entered a plea of guilty to said charge on June 4, 1968, and was sentenced to 15 years imprisonment.

In State action No. 23,300, Jessie James Haynes was charged by information with second degree rape in that on the 24th day of December, 1966, he "did unlawfully, feloniously, and wilfully rape, ravish, carnally know and have sexual intercourse with one Leota Marie Hennington Haynes, a female person not the wife of the said defendant, the said female being then and there under the age of sixteen (16) years; . . ." The defendant entered a plea of guilty to said charge on June 4, 1968, and was sentenced to 15 years imprisonment to run concurrently with the sentence in Case No. 23,295.

From a review of the previous petitions as set out above, the Court is apprised that on December 22, 1960, the victim in these cases, then eight years of age, was taken into the home of the defendant and his wife where the child was maintained without formal adoption. Although the wife

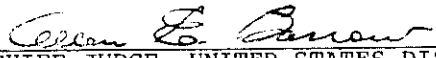
is alleged to have left the home in May of 1965, there is no record that the couple has been divorced; thus, the said Jessie James Haynes is not and has never been free to enter marriage with his victim or any other. Further, it is the law in the State of Oklahoma that an act of sexual intercourse accomplished with a female under the age of 16 years, not the wife of the perpetrator, is rape in the second degree, whether such act is accomplished by means of force or with consent. Also, in a prosecution for statutory rape, marriage of the defendant and his victim is no defense to the prosecution.

It has been previously determined in both State and Federal Court, **upon review** of the transcript of the plea and sentence of Jessie James Haynes, that the verdict of guilty was rendered on a free, knowing and voluntary plea of guilty which is not subject to collateral attack.

The Court finds that the petition herein should be denied and dismissed as the allegations are frivolous and totally without merit, they fail to state a claim or allege jurisdictional grounds for this proceeding, are barred by the applicable statute of limitations, and they are second and subsequent having been presented one or more times in the numerous prior proceedings.

IT IS, THEREFORE, ORDERED that this petition be and it is hereby denied and dismissed.

Dated this 5th day of June, 1973, at Tulsa, Oklahoma.


CHIEF JUDGE, UNITED STATES DISTRICT
COURT FOR THE NORTHERN DISTRICT OF
OKLAHOMA

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

Dennis Ray Brock,
Plaintiff,

vs.

John D. Timmons,
doing business as
Timmons Oil Company,
Defendants.

Civil Action
File No. 72-C-342

FILED
JUN 5 1973

Jack C. Silver, Clerk
U. S. DISTRICT COURT

APPLICATION FOR DISMISSAL

Comes now the plaintiff and respectfully shows to the Court that after discovery of the facts involved in the above litigation, it appears that the defendant is entitled to the benefits of the exemption provided in Title 29, U.S.C. Sec. 213 A(2) in that he did not have at the Pawhuska Station retail sales exclusive of excise tax of more than \$250,000.00 per year.

WHEREFORE, plaintiff prays that the Court enter its order dismissing the above entitled cause.

KELLY & GAMBILL

By Robert P. Kelly
Robert P. Kelly

Attorneys for Plaintiff

FILED
JUN 11 1973
Jack C. Silver, Clerk
U. S. DISTRICT COURT

ORDER OF DISMISSAL

On this 11th day of June, 1973, upon application of the plaintiff, it is

ORDERED by the Court that the above entitled cause be and the same hereby is dismissed.

Irene J. Jorgensen
United States District Judge

Approved:

Robert P. Kelly
Attorneys for Plaintiff

Annith L. Jorgensen
Attorney for Defendants

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

JACK DAVIS COX,)
)
 Petitioner,)
)
 vs.)
)
 PARK J. ANDERSON, Warden, and/)
 or the STATE OF OKLAHOMA,)
 et al,)
)
 Respondents.)

72-C-453

FILED
JUN 1 1973
Jack C. Silver, Clerk
U. S. DISTRICT COURT

ORDER

THE COURT, having examined the files and records of this proceeding, together with the transcript of record in Cases Nos. CRF-69-882 and CRF-69-913 in the District Court of Tulsa County, and the Second Report of the United States Magistrate concerning the same, and being fully advised in the premises, FINDS:

1. The plea of guilty by the petitioner was made voluntarily with understanding of the nature of the charge and the consequences of the plea.

2. The files, records and transcripts conclusively show the petitioner was not coerced in his plea of guilty.

3. The files, records and transcripts conclusively show that the petitioner was not denied the effective assistance of counsel.

4. The files and records conclusively show that the petitioner is not entitled to relief and, therefore, no evidentiary hearing is required.

IT IS, THEREFORE, ORDERED:

1. Petitioner's petition pursuant to § 2254, Title 28, U.S.C. is denied.

2. That a copy of this Order be mailed by the Clerk of this Court to the petitioner together with a copy of the Second Report of the United States Magistrate.

3. That a copy of this Order be furnished by the Clerk of this Court to the respondent by mailing the same to the Attorney General of the State of Oklahoma, State Capitol Building, Oklahoma City, Oklahoma, together with a copy of the Second Report of the United States Magistrate.

Dated this 31st day of May, 1973.

Carroll E. Barrow
CHIEF JUDGE, UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA.

UNITED STATES OF AMERICA,
Plaintiff,
vs.
JOHN O. AKERS, MARY M. AKERS,
MILLER-LEVIN INVESTMENT CO.,
AMERICAN FIDELITY CORP.,
FAMILY LOAN THRIFT, and
FRED'S FINE FOODS,
Defendants.

Clerk
 COURT

The Court being fully advised and having examined the file herein finds that Joe C. Alers, Mary M. Alers, Family Loan Thrift, and Fred's Fine Foods were served with complaint and summons on April 13, 1973; that Miller-Ewing Lumberment Company and American Finance Corporation were served with complaint and summons on April 17, 1973.

The Court further finds that this is a loan based upon a mortgage note and for closure on a first priority mortgage securing said mortgage note and that the following described real property is located in Nowata County, Oklahoma, within the Northern Judicial District of Oklahoma:

That the plaintiff and defendant to the plaintiff's satisfaction, and under the order of the Court shall be sold to the United States Marshal for the Northern District of Oklahoma, including him as the plaintiff, with appraisal of the real property and the proceeds thereof in satisfaction of plaintiff's judgment. The residue, if any, to be deposited with the Clerk of the Court to await further order of the Court.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that from and after the sale of said property, under and by virtue of this judgment and decree, all of the defendant and each of them and all persons claiming under them since the filing of the complaint herein be and they are forever barred and foreclosed of any right, title, interest or claim in or to the real property or any part thereof.

UNITED STATES DISTRICT JUDGE

Approved:

ROBERT P. SANTIAGO
Assistant United States Attorney

Robert L. Eastman
Attorney for American Finance Corporation

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

CHARLES D. ANDERSON,

Plaintiff,

vs.

SLOPE TRACTOR INCORPORATED, and
DeWILD-KEISER COMPANY,

Defendants.

No. 72-C-426

FILED
JUN 1 1973

ORDER OF DISMISSAL

Jack C. Silver, Clerk
U. S. DISTRICT COURT

Now on this 24th day of May, 1973, comes on for hearing motion of the defendant, Slope Tractor Incorporated, to dismiss petition of plaintiff. Both parties appearing by counsel and counsel for defendant announced his concurrence with plaintiff's motion and for good cause shown,

IT IS ORDERED BY THE COURT that plaintiff's petition be and the same is hereby dismissed without prejudice, each of the parties to pay their own costs herein expended and incurred.

Robert B. Blanton
United States District Judge

APPROVED:

Robert B. Blanton
Attorney for Plaintiff

William R. Keiser
Attorney for Defendant

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

United States of America,)	
)	
Plaintiff,)	
)	
vs.	)	CIVIL ACTION NO. 70-C-173
)	
40.92 Acres of Land, More or	)	Tract No. 536M
Less, Situate in Rogers County,)	
State of Oklahoma, and Harold	)	(Lessor Interest Only)
Wilcox, et al., and Unknown)	
Owners,)	
)	
Defendants.)	

FILED

JUN 1 1973

Jack C. Silver, Clerk
U. S. DISTRICT COURT

J U D G M E N T

1.

NOW, on this 1 day of June, 1973, this matter comes on for disposition on application of the Plaintiff, United States of America, for entry of judgment fixing just compensation in this matter. After having examined the files in this action and being advised by counsel, the Court finds:

2.

This judgment applies only to the lessor interest in the estate condemned in Tract No. 536M, as such estate and tract are described in the Complaint filed in this action.

3.

The Court has jurisdiction of the parties and the subject matter of this action.

4.

Service of Process has been perfected either personally or by publication notice, as provided by Rule 71A of the Federal Rules of Civil Procedure, on all parties defendant in this cause who are interested in subject property.

5.

The Acts of Congress set out in paragraph 2 of the Complaint filed herein give the United States of America the right, power and authority to condemn for public use the property described above in paragraph 2. Pursuant thereto, on

June 4, 1970, the United States of America filed its Declaration of Taking of such property, and title thereto should be vested in the United States of America, as of the date of filing such instrument.

6.

Simultaneously with filing the Declaration of Taking, there was deposited in the Registry of this Court as estimated compensation for the lessor interest in the estate taken in the subject tract a certain sum of money, and none of this deposit has been disbursed, as set out below in paragraph 13.

7.

A pre-trial hearing in this case was set by the Court for March 22, 1973. Due notice of such hearing was given to all of the parties. The Plaintiff, United States of America, appeared at such hearing by Hubert A. Marlow, Assistant United States Attorney for the Northern District of Oklahoma. Three of the owners of subject property, to-wit: Cecil M. Wilcox, Erma L. Morris, and Anita M. Turley appeared in person at such hearing. The other owners did not appear either in person or by attorney, but most of them had authorized Mr. Cecil M. Wilcox to speak for them.

8.

At the said pre-trial conference the parties stated their respective opinions as to the value of the subject interest. Neither party requested a trial. Based upon the pre-trial statements of the parties the Court concludes that a trial is not necessary or advisable and that the sum of \$900.00 should be adopted as the award of just compensation for the subject interest.

9.

This judgment will create a deficiency between the amount deposited as estimated just compensation for the lessor interest in the estate taken in subject tract and the amount fixed by the Court as just compensation, and a sum of money sufficient to cover such deficiency should be deposited by the Government. This deficiency is set out below in paragraph 13.

10.

The defendants named in paragraph 13 as owners of the lessor interest in the estate taken in the subject tract are the only defendants asserting any interest in such property. All other defendants having either disclaimed or defaulted, the named defendants are the owners of such property, as of the date of taking and, as such, are entitled to receive the just compensation awarded by this Judgment.

11.

It Is, Therefore, ORDERED, ADJUDGED and DECREED that the United States of America has the right, power and authority to condemn for public use the subject tract, as such tract is described in the Complaint filed herein, and such property, to the extent of the lessor interest in the estate described in such Complaint, is condemned, and title thereto is vested in the United States of America, as of June 4, 1970, and all defendants herein and all other persons are forever barred from asserting any claim to such interest.

12.

It Is Further ORDERED, ADJUDGED and DECREED that on the date of taking in this case, the owners of the lessor interest in the estate taken herein in subject tract were the defendants whose names appear below in paragraph 13, and the right to receive the just compensation awarded by this judgment is vested in the parties so named.

13.

It Is Further ORDERED, ADJUDGED and DECREED that the sum of \$900.00 hereby is adopted as the award of just compensation for the lessor interest in the estate taken in subject tract, and such award is allocated among the various owners as shown by the following schedule:

TRACT NO. 536M
(Lessor Interest Only)

Owners of lessor interest:

Heirs of Harold Wilcox,
deceased, who are:

Ethel Wilcox (widow) -----	1/21
Dorothy May Kinsinger -----	2/63
Earl Lee Wilcox -----	2/63
Karen Sue Wilcox -----	2/63
Erma L. Morris -----	1/7
Cecil M. Wilcox -----	1/7
Wayne W. Wilcox -----	1/7
Mildred Belcher -----	1/7
Beryl Harbin -----	1/7
Anita M. Turley -----	1/7

Award of just compensation pursuant to Court's findings -----	\$900.00	\$900.00
Deposited as estimated compensation -	246.00	
Disbursed to owners -----		None
Balance due to owners -----		\$900.00 plus interest
Deposit deficiency -----	\$654.00	

14.

It Is Further ORDERED, ADJUDGED and DECREED that the United States of America shall pay into the Registry of this Court for the benefit of the owners the deposit deficiency shown in paragraph 13 above, in the total amount of \$654.00, together with interest thereon, computed at the rate of 6% per annum from June 4, 1970, to the date of such payment, and such sum shall be placed in the deposit for the subject tract in this civil action.

Upon receipt of such deficiency deposit the Clerk of this Court shall disburse from the deposit for the subject tract certain sums as follows:

To each owner the balance due to him as shown above in paragraph 13, together with each owner's proportionate share of the accrued interest on the deposit deficiency based upon such owner's fractional interest in the subject property.

/s/ Allen E. Barrow

UNITED STATES DISTRICT JUDGE

APPROVED:

/s/ Hubert A. Marlow

HUBERT A. MARLOW
Assistant United States Attorney

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

United States of America,)
)
Plaintiff,)
)
vs.) CIVIL ACTION NO. 71-C-193
)
10.00 Acres of Land, More or) Tract No. 1621M
Less, Situate in Nowata County,)
State of Oklahoma, and Eva) (Lessor Interest Only)
Payne Glass, et al., and)
Unknown Owners,)
)
Defendants.)

FILED

JUN 1 1973

Jack C. Silver, Clerk
U. S. DISTRICT COURT

J U D G M E N T

1.

NOW, on this 1 day of June, 1973, this matter comes on for disposition on application of the Plaintiff, United States of America, for entry of judgment fixing just compensation in this matter. After having examined the files in this action and being advised by counsel, the Court finds:

2.

This judgment applies only to the lessor interest in the estate condemned in Tract No. 1621M, as such estate and tract are described in the Complaint filed in this action.

3.

The Court has jurisdiction of the parties and the subject matter of this action.

4.

Service of Process has been perfected either personally or by publication notice, as provided by Rule 71A of the Federal Rules of Civil Procedure, on all parties defendant in this cause who are interested in subject property.

5.

The Acts of Congress set out in paragraph 2 of the Complaint filed herein give the United States of America the right, power and authority to condemn for public use the property described above in paragraph 2. Pursuant thereto, on June 1, 1971, the United States of America filed its Declaration of Taking of such property, and title thereto should be

vested in the United States of America, as of the date of filing such instrument.

6.

Simultaneously with filing the Declaration of Taking, there was deposited in the Registry of this Court as estimated compensation for the lessor interest in the estate taken in the subject tract a certain sum of money, and none of this deposit has been disbursed, as set out below in paragraph 13.

7.

A pre-trial hearing in this case was set by the Court for March 27, 1973. Due notice of such hearing was given to all of the parties. The Plaintiff, United States of America, appeared at such hearing by Hubert A. Marlow, Assistant United States Attorney for the Northern District of Oklahoma. Mr. W. E. Maddux, Attorney, appeared for the owner of the subject property.

8.

At the said pre-trial conference the parties stated their respective opinions as to the value of the subject interest. Neither party requested a trial. Based upon the pre-trial statements of the parties, the Court concludes that a trial is not necessary or advisable and that the sum of \$170.00 should be adopted as the award of just compensation for the subject interest.

9.

This judgment will create a deficiency between the amount deposited as estimated just compensation for the lessor interest in the estate taken in subject tract and the amount fixed by the Court as just compensation, and a sum of money sufficient to cover such deficiency should be deposited by the Government. This deficiency is set out below in paragraph 13.

10.

The defendant named in paragraph 13 as owner of the lessor interest in the estate taken in the subject tract is the only defendant asserting any interest in such property. All other defendants having either disclaimed or defaulted, the named defendant is the owner of such property, as of the date of taking,

and, as such, is entitled to receive the just compensation awarded by this judgment.

11.

It Is, Therefore, ORDERED, ADJUDGED and DECREED that the United States of America has the right, power and authority to condemn for public use the subject tract, as such tract is described in the Complaint filed herein, and such property, to the extent of the lessor interest in the estate described in such Complaint, is condemned, and title thereto is vested in the United States of America, as of June 1, 1971, and all defendants herein and all other persons are forever barred from asserting any claim to such interest.

12.

It Is Further ORDERED, ADJUDGED and DECREED that on the date of taking in this case, the owner of the lessor interest in the estate taken herein in subject tract was the defendant whose name appears below in paragraph 13, and the right to receive the just compensation awarded by this judgment is vested in the party so named.

13.

It Is Further ORDERED, ADJUDGED and DECREED that the sum of \$170.00 hereby is adopted as the award of just compensation for the lessor interest in the estate taken in subject tract, as shown by the following schedule:

TRACT NO. 1621M

(Lessor Interest Only)

Owner of lessor interest: Eva Payne Glass

Award of just compensation pursuant to Court's findings -----	\$170.00	\$170.00
Deposited as estimated compensation -	60.00	
Disbursed to owner -----		<u>None</u>
Balance due to owner -----		\$170.00 plus interest
Deposit deficiency -----	\$110.00	

14.

It Is Further ORDERED, ADJUDGED and DECREED that the United States of America shall pay into the Registry of this Court for the benefit of the owner the deposit deficiency shown in paragraph 13 above, in the total amount of \$110.00, together with interest thereon computed at the rate of 6% per annum from June 1, 1971, to the date of such payment, and such sum shall be placed in the deposit for the subject tract in this civil action.

Upon receipt of such deficiency deposit the Clerk of this Court shall disburse from the deposit for the subject tract to Eva Payne Glass the sum of \$170.00 together with all accrued interest included in said deficiency deposit.

/s/ Allen E. Barrow

UNITED STATES DISTRICT JUDGE

APPROVED:

/S/ Hubert A. Marlow

HUBERT A. MARLOW
Assistant United States Attorney

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

United States of America,)	
)	
Plaintiff,)	
)	
vs.	)	CIVIL ACTION NO. 71-C-196
)	
20.00 Acres of Land, More or	)	Tracts Nos. 1624M and 1626M
Less, Situate in Nowata County,)	
State of Oklahoma, and Grace	)	(Lessor Interest Only)
Simpson, et al., and Unknown)	
Owners,)	
)	
Defendants.)	

E I L E D

JUN 1 1973

Jack C. Silver, Clerk
U. S. DISTRICT COURT

J U D G M E N T

1.

NOW, on this 1 day of June, 1973, this matter comes on for disposition on application of the Plaintiff, United States of America, for entry of judgment fixing just compensation in this matter. After having examined the files in this action and being advised by counsel, the Court finds:

2.

This judgment applies to the lessor interest only in the estate condemned in Tracts Nos. 1624M and 1626M, as such estate and tracts are described in the Complaint filed in this action.

3.

The Court has jurisdiction of the parties and the subject matter of this action.

4.

Service of Process has been perfected either personally or by publication notice, as provided by Rule 71A of the Federal Rules of Civil Procedure, on all parties defendant in this cause who are interested in subject property.

5.

The Acts of Congress set out in paragraph 2 of the Complaint filed herein give the United States of America the right, power and authority to condemn for public use the property described above in paragraph 2. Pursuant thereto, on

June 1, 1971, the United States of America filed its Declaration of Taking of such property, and title thereto should be vested in the United States of America, as of the date of filing such instrument.

6.

Simultaneously with filing the Declaration of Taking, there was deposited in the Registry of this Court as estimated compensation for the lessor interest in the estate taken in the subject tracts a certain sum of money, and none of this deposit has been disbursed, as set out below in paragraph 13.

7.

A pre-trial hearing in this case was set by the Court for March 27, 1973. Due notice of such hearing was given to all of the parties. The Plaintiff, United States of America, appeared at such hearing by Hubert A. Marlow, Assistant United States Attorney for the Northern District of Oklahoma. Mary Ella Davis and Frances S. Noyas, two of the owners of the subject property, appeared. The other owners did not appear in person, nor did any attorney appear for them.

8.

At the said pre-trial conference the parties stated their respective opinions as to the value of the subject interest. Neither party requested a trial. Based upon the pre-trial statements of the parties, the Court concludes that a trial is not necessary or advisable and that the sum of \$1,800.00 should be adopted as the award of just compensation for the subject interest.

9.

This judgment will create a deficiency between the amount deposited as estimated just compensation for the lessor interest in the estate taken in subject tracts and the amount fixed by the Court as just compensation, and a sum of money sufficient to cover such deficiency should be deposited by the Government. This deficiency is set out below in paragraph 13.

10.

The defendants named in paragraph 13 as owners of the lessor interest in the estate taken in the subject tracts are the

only defendants asserting any interest in such property. All other defendants having either disclaimed or defaulted, the named defendants are the owners of such property, as of the date of taking and, as such, are entitled to receive the just compensation awarded by this judgment.

11.

It Is, Therefore, ORDERED, ADJUDGED and DECREED that the United States of America has the right, power and authority to condemn for public use the subject tracts, as they are described in the Complaint filed herein, and such property, to the extent of the lessor interest in the estate described in such Complaint, is condemned, and title thereto is vested in the United States of America, as of June 1, 1971, and all defendants herein and all other persons are forever barred from asserting any claim to such interest.

12.

It Is Further ORDERED, ADJUDGED and DECREED that on the date of taking in this case, the owners of the lessor interest in the estate taken herein in subject tracts were the defendants whose names appear below in paragraph 13 and the right to receive the just compensation awarded by this judgment is vested in the parties so named.

13.

It Is Further ORDERED, ADJUDGED and DECREED that the sum of \$1,800.00 hereby is adopted as the award of just compensation for the lessor interest in the estate taken in subject tracts, and such award is allocated among the various owners as shown by the following schedule:

TRACTS NOS. 1624M and 1626M
(Lessor Interest Only)

Owners of the lessor interest:	(Fraction of total lessor ownership)
Frances S. Noyes ----- (Successor to Grace Simpson, deceased)	1/4
Heirs of G. O. Bayless, deceased, who are:	
John M. Bayless -----	1/9
Thomas P. Bayless -----	1/9
Maud Paul Bayless (widow) -----	1/6
Guy O. Bayless, Jr. -----	1/9
Mary Ella Davis -----	1/4

Award of just compensation, pursuant to Court's findings --	\$1,800.00	\$1,800.00
Deposited as estimated compensation -----	\$1,353.00	
Disbursed to owners -----		None
Balance due to owners -----		\$1,800.00 plus interest
Deposit deficiency -----	\$ 447.00	

14.

It Is Further ORDERED, ADJUDGED and DECREED that the United States of America shall pay into the Registry of this Court for the benefit of the owners the deposit deficiency shown in paragraph 13 above, in the total amount of \$447.00, together with interest thereon, computed at the rate of 6% per annum from June 1, 1971, to the date of such payment, and such sum shall be placed in the deposit for the subject tract in this civil action.

Upon receipt of such deficiency deposit the Clerk of this Court shall disburse from the deposit for the subject tract certain sums as follows:

To each owner the balance due to him as shown above in paragraph 13, together with each owner's proportionate share of the accrued interest on the deposit deficiency based upon such owner's fractional interest in the subject property.

/s/ Allen E. Barrow

APPROVED:

UNITED STATES DISTRICT JUDGE

/s/ Hubert A. Marlow

HUBERT A. MARLOW
Assistant United States Attorney

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

United States of America,)	
)	
Plaintiff,)	
)	
vs.	)	CIVIL ACTION NO. 71-C-204
)	
38.57 Acres of Land, More or	)	Tract No. 1706M
Less, Situate in Nowata County,)	
State of Oklahoma, and Roy	)	(7/12 of the Lessor Interest
Porter, et al., and Unknown	)	Only)
Owners,)	
)	
Defendants.)	

E I L E D

JUN 1 1973

J U D G M E N T

Jack C. Silver, Clerk
U. S. DISTRICT COURT

1.

NOW, on this 1 day of June, 1973, this matter comes on for disposition on application of the Plaintiff, United States of America, for entry of judgment fixing just compensation in this matter. After having examined the files in this action and being advised by counsel, the Court finds:

2.

This judgment applies only to 7/12 of the lessor interest in the estate condemned in Tract No. 1706M, as such estate and tract are described in the Complaint filed in this action.

3.

The Court has jurisdiction of the parties and the subject matter of this action.

4.

Service of Process has been perfected either personally or by publication notice, as provided by Rule 71A of the Federal Rules of Civil Procedure, on all parties defendant in this cause who are interested in subject property.

5.

The Acts of Congress set out in paragraph 2 of the Complaint filed herein give the United States of America the right, power and authority to condemn for public use the property described above in paragraph 2. Pursuant thereto, on

June 1, 1971, the United States of America filed its Declaration of Taking of such property, and title thereto should be vested in the United States of America, as of the date of filing such instrument.

6.

Simultaneously with filing the Declaration of Taking, there was deposited in the Registry of this Court as estimated compensation for 7/12 of the lessor interest in the estate taken in the subject tract a certain sum of money, and none of this deposit has been disbursed, as set out below in paragraph 12.

7.

A pretrial hearing in this case was set by the Court for March 27, 1973. Due notice of such hearing was given to all of the parties. The Plaintiff, United States of America, appeared at such hearing by Hubert A. Marlow, Assistant United States Attorney for the Northern District of Oklahoma. The owners of the subject property did not appear, nor did any attorney appear for them.

8.

The Court has been advised by counsel for Plaintiff that in the event of a trial, Plaintiff's evidence would show that \$196.58 was the value of 7/12 of the lessor interest in the estate taken in this case. This sum is based upon an appraisal made by J. M. Wanenmacher; and, no objection having been made by the owners, such sum should be adopted as the award of just compensation for the subject interest.

9.

The defendants named in paragraph 12 as owners of 7/12 of the lessor interest in the estate taken in the subject tract are the only defendants asserting any interest in such property. All other defendants having either disclaimed or defaulted, the named defendants are the owners of such property, as of the date of taking and, as such, are entitled to receive the just compensation awarded by this Judgment.

10.

It Is, Therefore, ORDERED, ADJUDGED and DECREED that the United States of America has the right, power and authority to condemn for public use the subject tract, as such tract is described in the Complaint filed herein, and such property, to the extent of 7/12 of the lessor interest in the estate described in such Complaint, is condemned, and title thereto is vested in the United States of America, as of June 1, 1971, and all defendants herein and all other persons are forever barred from asserting any claim to such interest.

11.

It Is Further ORDERED, ADJUDGED and DECREED that on the date of taking in this case, the owners of 7/12 of the lessor interest in the estate taken herein in subject tract were the defendants whose names appear below in paragraph 12, and the right to receive the just compensation awarded by this judgment is vested in the parties so named.

12.

It Is Further ORDERED, ADJUDGED and DECREED that the sum of \$196.58 hereby is adopted as the award of just compensation for 7/12 of the lessor interest in the estate taken in subject tract, and such award is allocated among the various owners as shown by the following schedule:

TRACT NO. 1706M

(7/12 of the Lessor Interest Only)

Owners of 7/12 of the lessor interest:

Roy Porter (now deceased, and Opal Faye Porter
has succeeded to his interest)

Opal Faye Porter ----- 7/24

Ara C. Pendleton ----- 7/24

Award of just compensation pursuant
to Court's findings ----- \$196.58 \$196.58

Deposited as estimated compensation --- \$196.58

Disbursed to owners ----- None

Balance due to owners ----- \$196.58

13.

It Is Further ORDERED that the Clerk of this Court now shall disburse from the deposit for the subject tract certain sums as follows:

To Opal Faye Porter ----- \$98.29

To Ara C. Pendleton ----- \$98.29

/s/ Allen E. Barrow

UNITED STATES DISTRICT JUDGE

APPROVED:

/s/ Hubert A. Marlow

HUBERT A. MARLOW
Assistant United States Attorney